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IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Initial reports submitted by States parties under articles 16 and 17 of the Covenant

Addendum

CZECH REPUBLIC*

[30 August 2000]

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* The information submitted by the Czech Republic in accordance with the guidelines concerning the initial part of reports of States parties is contained in the core document (HRI/CORE/1/Add.71).

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[*] Available for consultation in the files of the secretariat.

Introduction

1. The International Covenant on Economic, Social and Cultural Rights (the Covenant) was opened for signature in New York on 19 December 1966. The Covenant was signed in New York in the name of the Czechoslovak Socialist Republic on 7 October 1968.

2. The Federal Assembly of the Czechoslovak Socialist Republic approved the Covenant on 11 November 1975. The President then ratified the Covenant with a comment on article 26, paragraph 1. The instruments of ratification of the Czechoslovak Socialist Republic were deposited with the Secretary-General of the United Nations on 23 December 1975.

3. The Czech Republic (CR) came into existence on 1 January 1993 as one of two successor States to the Czech and Slovak Federal Republic (CSFR). By notice of 22 February 1993 addressed to the Secretary-General of the United Nations, the depositary of the Covenant, the CR succeeded to the obligations arising from the Covenant for the former CSFR as of 1 January 1993.

4. The International Covenant on Economic, Social and Cultural Rights entered into force for the Czechoslovak Socialist Republic in accordance with its article 27 on 23 March 1976. The full text of the Covenant, together with the text of the International Covenant on Civil and Political Rights was published in the Collection of Laws under No. 120/1976 Coll. The text of the Covenant thereby became accessible to everyone and generally binding. Under article 10 of the Constitution of the Czech Republic the Covenant has precedence over the law.

5. The initial report of the Czech Republic is submitted for the period from 1 January 1993 to 31 December 1999 (the "report period"). Preparation of the initial report of the CR, submitted in accordance with articles 16 and 17 of the Covenant, was based on:

(a) The Committee's revised general guidelines on the form and content of reports on the fulfilment of obligations arising from the Covenant, presented by States parties;

(b) Relevant facts and new measures adopted by the Czech Republic to fulfil obligations arising from the Covenant in the report period.

6. The report was prepared by the Human Rights Department of the Office of the Government of the Czech Republic based on documentation from central State administration bodies: the Ministries of Transport and Communications, Culture, Defence, Local Development, Labour and Social Affairs, Justice, Education, Youth and Sports, the Interior, Foreign Affairs, Health, Agriculture, the Environment, the Czech Statistical Office, the Council for Radio and Television Broadcasting, the Research and Development Council of the Government of the Czech Republic, the CR Government Board for People with Disabilities, and the Council for National Minorities of the Government of the Czech Republic. Additional documentation was provided by non-governmental non-profit organizations and academic institutions.

I. GENERAL INFORMATION

A. Country and people

7. The Czech Republic has an area of 78,866 km^2, and as of 31 December 1998 it had a population of 10,299,000. The population density is 130 people per km^2.

8. The present population of the Czech Republic is of a regressive type, i.e. the proportion of children is lower than the proportion of the oldest age groups (people over 50); the total number of inhabitants is declining, even after adding migration, and on average the population is ageing. At higher ages there is a significant preponderance of women. The economic burden on the population of productive age is increasing, particularly in view of the pension system, which is based on current financing of pensions by economically active people.

Population by main age groups (as of 31 December of each year)

Indicator	1993	1994	1995	1996	1997	1998
Age: 0-14 (%)	19.5	18.8	18.3	17.9	17.4	17.0
15-59 (%)	62.5	63.2	63.7	64.1	64.6	64.9
60 and over (%)	18.0	18.0	18.0	18.0	18.0	18.1
Average age	36.8	37.0	37.3	37.6	37.9	38.2
Ageing index[a]	92.4	95.4	98.1	100.8	103.5	106.4

Source: Czech Statistical Office, 1999.

[a] The number of people aged 60 and over per 100 children aged 0-14.

9. Information about population structure by other important characteristics, including nationality, education, religious faith and economic activity, comes from the last census of the population, houses and apartments in 1991.

10. The Czech Republic is a very homogeneous country by nationality: in 1991, 95 per cent of all people described themselves as being of Czech nationality (including Moravian and Silesian). The most numerous other nationalities are Slovak (3 per cent), Polish (0.6 per cent), German (0.5 per cent) and Romani (0.3 per cent). The country also has inhabitants of Hungarian, Ukrainian, Russian, Bulgarian, Greek and other nationalities.

11. In the census, more than half of inhabitants stated that they did not have a religion, or did not answer the question. The total number of people who reported having a religion listed primarily Christian Churches, especially the Roman Catholic Church (89 per cent of those reporting a religion).

12. The education level of the population (highest completed education level for people over 25) in 1991 was as follows: 32 per cent of the adult population completed elementary education, 59 per cent completed secondary academic or trade education, 9 per cent attained university education. Younger generations reach a higher education level than did the older

generations. Among people aged 25 to 29 there were only 11 per cent with only elementary education, among people aged 50 to 59 there were 37 per cent, and among people aged over 60 the number was over 56 per cent.

13. In 1995 in the group of employers there were 11 per cent with only elementary education, 45 per cent had a trade education without an academic secondary school diploma, 32 per cent were academic secondary school graduates, and almost 11 per cent of employers had completed higher education.

14. The economically active population of the Czech Republic has several characteristic features: most of them are employees (with an income from employment), the dominant sector is industry, the number of workers in agriculture is declining, the number of people working in non-manufacturing fields is continually increasing, over 90 per cent of women of productive age are employed.

15. During the 1990s the population environment worsened, and important demographic indicators - the marriage, fertility and birth rates - declined. From 1994 onwards the number of inhabitants declined naturally. At the same time, however, the life expectancy (at birth) increased, more among men than women. The increase in the life expectancy was affected primarily by a decrease in infant mortality and mortality among seniors, i.e. the youngest and oldest age groups. However, mortality declined in all age groups, even more among people 40 and over than among younger people.

Population and vital statistics in 1993 to 1998

Indicator	1993	1994	1995	1996	1997	1998
Life expectancy: men	69.3	69.5	70.0	70.4	70.5	71.1
women	76.4	76.6	76.9	77.3	77.5	78.6
Live births per 1,000 inhabitants	11.7	10.3	9.3	8.8	8.8	8.8
Deaths per 1,000 inhabitants	11.4	11.4	11.4	10.9	10.9	10.6
Natural increase per 1,000 inhabitants	0.3	-1.0	-2.1	-2.2	-2.1	-1.8
Marriages per 1,000 inhabitants	6.4	5.7	5.3	5.2	5.6	5.3
Divorces per 100 marriages	45.8	52.9	56.7	61.4	56.2	58.8

Source: Statistical Yearbook of the CR, 1999.

16. The high divorce rate is a continuing negative phenomenon. In 1997, virtually 42 per cent of marriages ended in divorce, whereas when the Czech Republic was created this figure was only 36 per cent. At the same time, demographic behaviour in the 1990s also shows positive changes in the population's family behaviour - the average age at first marriage and the birth of a first child is rising. The number of couples living together in so-called de facto marriages is also increasing.

17. The demographic situation is increasingly influenced by immigration, which is slowing the population ageing process and the number of inhabitants. The number of foreigners with long-term and permanent residence permits in the country is increasing. Whereas in 1993 there were 7.5 such foreigners per 1,000 inhabitants, in 1997 the number was 23.4 foreigners. In

absolute terms that meant 77,700 people in 1993 and 209,800 citizens of foreign countries in 1997.[1] The main source countries for immigration to the Czech Republic are Slovakia, Viet Nam, Ukraine, Germany, and the Russian Federation.

18. Internal migration shows a long-term gradual decrease in the amount of moving, especially over longer distances. The largest population loss is in medium-sized cities with 54,000-100,000 inhabitants and in large cities. In contrast, municipalities with 2,000-5,000 inhabitants located near industrial and administrative centres are gaining population. This sub-urbanization process has primarily social and ecological causes. Population loss and ageing are also continuing in the smallest rural municipalities with up to 200 and 500 inhabitants.

B. Economic situation

19. Since its creation in 1993, the Czech Republic continues to strengthen the market economy and create conditions for faster and sustainable economic growth and improvement of the population's standard of living. The key aim of economic policy here is entry into the European Union. The country will be able to handle the competitive pressure and market forces in the EU, provided that it speeds up its structural reforms.[2]

20. The economic structure of the Czech Republic is similar to that of economically developed countries. In 1997 agriculture (including forestry, hunting and game management and fish farming) occupied roughly 5 per cent of the total number of economically active persons, and represented 4 per cent of gross domestic product (GDP). In 1997 GDP per capita reached roughly 63 per cent of the average achieved in European Union countries, i.e. CK 160,089 per inhabitant (ca. 12,000 euros).

21. The dominant form of ownership is private ownership. However, the State still has significant holdings, for example in electricity distribution companies, in mines, steel mills and some of the larger banks. A large part of agricultural land also remains in State hands, although the market in land was also liberalized. Most goods are sold at market prices, but household energy and services prices, including rents, are still regulated. The prices of passenger bus and railroad transportation and telecommunications services are also regulated.

22. In the first years of the independent republic, after an initial decline in manufacturing, related to the first steps in transition to a market economy, the situation in the national economy improved, so that in 1995 the growth in GDP was 6.4 per cent, and in 1996 it was 3.8 per cent. The recovery process was interrupted by stagnation in manufacturing in 1997 (real growth in GDP of only 0.3 per cent) and considerable economic recession in 1998 and 1999. The changes in the rate of economic growth during the entire period were affected primarily by fluctuation in the influx of foreign capital, which was 15.8 per cent of GDP in 1995, but only 2 per cent in 1997 and 4.7 per cent in 1998.

23. After very low unemployment in the early years of the period of transition to a functioning market economy, the unemployment rate indicator grew quickly in 1997 to 1998; in mid-1999 it was over 8 per cent. The growth in unemployment reflects the slowdown in economic growth and restructuring of the entrepreneurial sector.

24. Inflation in the Czech Republic - considering the transformation of the economy - was relatively low in the report period; it ranged between 8 and 11 per cent, and in 1999 it even declined to 2.5 per cent. The Czech Republic's fiscal policy was highly disciplined, which was apparent until 1997 in, among other things, approving balanced State budgets. Beginning in 1996 the budget deficit began to grow, to 1.5 per cent of GDP in 1998, despite efforts to limit State expenditures. The level of public debt is relatively low - only 13.2 per cent of GDP. However, in view of the hidden deficits caused by off-budget operations and the high number of State guarantees for economic revival programmes, the actual public debt is estimated at up to double the stated figure.

Growth of main indicators of the national economy in the Czech Republic

Indicator	1994	1995	1996	1997	1998
Real GDP growth in %	2.7	6.4	3.9	1.0	-2.3
Inflation rate in %	10.0	9.1	8.8	8.5	10.7
Unemployment rate in %:					
according to ILO definitions	3.8	4.1	3.5	4.7	7.3
registered	3.2	3.0	3.5	5.2	7.4
Balance of public budgets: % of GDP	-1.3	-1.3	-1.8	-2.2	-1.5
Balance of current account: % of GDP	-1.9	-2.7	-7.6	-6.1	-1.9
Foreign debt: ratio of debt/exports (in %)	5.1	5.8	6.9	7.1	6.5
Direct foreign investments: net, % of GDP	-	5.0	2.5	2.5	4.5

Source: European Commission Regular Report on the Czech Republic, 1999.

25. The Czech economy has a high degree of openness, so it is very sensitive to developments in foreign goods and financial markets. In 1998 the degree of openness[3] was 125 per cent.

26. In 1993 to 1997, difficulties appeared in the relationship between quick economic growth and the external balance of payments. However, in 1998 the current account deficit in balance of payments decreased to a mere 1.9 per cent of GDP, in particular as a result of a marked decline in economic activity, low raw materials prices, and a decline in imports caused by the recession.

27. The worsening productivity of the national economy in recent years reflects the basic weaknesses of the Czech entrepreneurial and financial sector. Restructuring in the entrepreneurial sector is happening slowly, and to a limited extent. It is hindered by the immaturity and imperfection of the nascent market institutions, an inadequate framework for company administration and unclear ownership. Inadequacies in seeking enforcement of rights worsen the situation.

C. State government and local self-government

28. The Czech Republic is administratively divided into districts, which are further divided into municipalities. There are 76 districts, three of which are also large cities: Brno, Plzeň and Ostrava. A district has an average of 83 municipalities. The capital city of Prague is an

independent territorial unit; its jurisdiction corresponds to a region, and the jurisdiction of its city districts corresponds to that of districts. The smallest administrative units are municipalities, of which the Czech Republic has over 6,000. Roughly 10 per cent of them have the status of towns, and roughly 75 per cent of the country's population lives in them. In contrast, small rural municipalities of up to 1,000 inhabitants comprise 78 per cent of all municipalities, but only 16 per cent of the population lives in them.

29. In the report period, only municipalities were self-governing units. Higher territorial self-governing units (regions) were created by a constitutional act in 1997.[4] This act defines the borders of 14 new regions as the territory of the districts which each region contains. The act went into effect on 1 January 2000. State government in districts is provided by district offices, whose activities and jurisdiction are governed by a special law.[5]

30. In the report period, the basic territorial self-governing unit was a municipality. A municipality is administered by a body of representatives as a public law corporation, which can have its own property and operate under its own budget. The State may interfere with the activities of territorial self-governing units, including municipalities, only if it is required to protect the law, and only in a manner provided by law. Representative bodies are elected by secret ballot on the basis of universal, equal and direct suffrage, and their term of office is four years.[6] Within the limits of their jurisdiction, the representative bodies can issue generally binding decrees.[7]

31. Legislative power in the Czech Republic belongs to the Parliament. The Parliament consists of two chambers, the Chamber of Deputies and the Senate. Every citizen of the CR who has reached the age of 18 has the right to vote for deputies and senators.

32. The Chamber of Deputies has 200 deputies, elected for a period of four years. Elections to the Chamber of Deputies are held by secret ballot on the basis of universal, equal and direct suffrage, on the principle of proportional representation. Every citizen of the CR who has the right to vote, is not subject to a restriction on exercise of the right to vote on election day[8] and has reached the age of 21 is eligible to be elected to the Chamber of Deputies, with the exception of a statutory restriction on personal freedom for reasons of protecting public health.[9]

33. The Senate has 81 senators, elected for a period of six years. A third of the senators are elected every two years. Elections to the Senate are held by secret ballot on the basis of universal, equal and direct suffrage, on the principle of a majority system. Every citizen of the CR who has the right to vote, has reached the age of 40, and is not subject to a restriction on the exercise of the right to vote on election day[10] is eligible to be elected to the Senate.

34. The head of State is the President of the Republic, elected by Parliament at a joint session of both chambers.[11] The President's term of office is five years, and no one can be elected more than twice consecutively. Every citizen of the CR who can be elected to the Senate is eligible to be elected President of the Republic. The President of the Republic has the right to participate in sessions of both chambers of Parliament and government meetings.

35. The supreme body of executive power is the Government, which consists of the prime minister, deputy prime ministers, and ministers. The Government is responsible to the Chamber of Deputies. The prime minister is named by the President, who names the other ministers at the proposal of the prime minister. A minister may not perform activities whose nature is in conflict with performance of his position. The Government may submit a motion for a vote of confidence to the Chamber of Deputies. The Chamber of Deputies may give the Government a vote of no confidence. The prime minister submits his resignation to the President of the Republic; other ministers submit their resignation to the President of the Republic through the prime minister. The Government makes decisions collectively. The consent of a majority of ministers is required to pass a government resolution. The Government is authorized to issue decrees to implement the law, within its bounds. Ministries, other administrative bodies[12] and territorial self-government bodies may issue legal regulations on the basis of and within the bounds of a law, if they are authorized to do so by the law.

36. Under the Constitution of the Czech Republic (the "Constitution") management of State assets and observance of the State budget is inspected by an independent body - the Supreme Audit Office. The President and Vice-President of the Supreme Audit Office are named by the President of the Republic at the proposal of the Chamber of Deputies. The status, jurisdiction, organizational structure, and other details concerning the Supreme Audit Office are set by law.[13]

37. The State's central bank is the Czech National Bank. The main purpose of its activities is to care for the stability of the currency; its activities can be interfered with only on the basis of the law. The status, jurisdiction, and other details are set by law.[14] The Bank is governed by a seven-member bank council. Its members are appointed and recalled by the President of the Republic. Membership of the bank council is incompatible with the position of a deputy in a legislative body, a minister, or membership in top bodies of other banks or companies.

D. Political system

38. Under the Constitution, the political system is based on the free and voluntary formation of and free competition among political parties and political movements which respect the fundamental democratic principles and which renounce force as a means of promoting their interests. Political decisions are based on the will of the majority, manifested in free voting. The decisions of the majority take into consideration the protection of minorities.

39. After elections in 1996, representatives of six political parties entered the Chamber of Deputies of the Parliament. After elections early in 1998, the Chamber of Deputies now has representatives from five political parties. In 1996 five political parties were represented in the Senate, and there were 10 independent senators (12 per cent); after elections in 1998 and supplemental elections in 1999, the Senate contained 6 political parties and 12 independent senators (14 per cent).

40. The last communal elections were held in the Czech Republic in 1998. At the level of municipal representative bodies the political spectrum is extremely varied; in addition to representatives of parliamentary parties and independent candidates there are also representatives of non-parliamentary political parties and political movements, or people elected from coalitions

of political parties and movements, associations of political parties and independent candidates and associations of independent candidates created for a given election. In 1998 a total of 53 such entities were successful in elections. While parliamentary parties won 20.3 per cent of all mandates on the communal level, candidates without party affiliation received 77 per cent of mandates.

E. Judiciary

41. Under article 4 of the Constitution, basic rights and freedoms enjoy the protection of the judicial power. The judicial power is exercised in the name of the republic by independent courts. Judges are independent in the exercise of their functions. The position of a judge is incompatible with the position of President of the Republic, member of Parliament, or any position in the public administration. The law specifies which other activities are incompatible with the position of a judge.[15]

42. It is the responsibility of the courts to provide protection of rights in a manner set forth by law. Only a court decides questions of guilt and punishment for crimes. The court system consists of the Supreme Court, the Supreme Administrative Court, high, regional and district courts, and regional commercial courts. The jurisdiction and organization of a court are provided by law. A judge is appointed to the position by the President of the Republic, without a time limit. When making decisions, a judge is bound by the law. All parties to proceedings have equal rights before the courts. Proceedings before the courts are oral and public, with exceptions provided by law. A decision is always announced publicly.

43. The judicial body for protection of constitutionality and domestic law is the Constitutional Court.[16] The Constitutional Court of the Czech Republic, which began its activities on 1 July 1993, followed the brief existence of the Constitutional Court of the CSFR. Review of constitutionality is connected with the application of norms which are part of the constitutional order of the republic, particularly with application of the Constitution and the Charter of Fundamental Rights and Freedoms (the "Charter"). However, this fact also leads the Court to apply international law, primarily the special category of international treaties on human rights and fundamental freedoms, in accordance with article 10 of the Constitution.

44. The Constitutional Court is also the last opportunity for domestic remedy of decisions of State bodies, particularly general courts. In a conflict between international and domestic law, the Constitutional Court applies international and regional (European) treaties on human rights, particularly the International Covenant on Civil and Political Rights (reliance on individual provisions of the Covenant has appeared in approximately 30 of the Constitutional Court's decisions since it began its activities), the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child and the European Convention on the Protection of Human Rights and Fundamental Freedoms, as amended by supplemental protocols. The Constitutional Court annuls legal regulations or their parts which are in conflict with the constitutional order of the Czech Republic (mostly provisions of the Charter) or with an international agreement. In its decisions to date, annulling a legal norm, or part of one, exclusively due to conflict with an international agreement is an exceptional occurrence (decision of the Constitutional Court No. 41 of 9 April 1997 on the legal institution of "institutional upbringing", where the Constitutional Court annulled section 171, paragraph 1 (d)

of the Criminal Code[17] due to its conflict with article 3, paragraph 1 of the Convention on the Rights of the Child). The Constitutional Court also pointed to a more extensive concept of protection of human rights and fundamental freedoms guaranteed by an international treaty on human rights compared to domestic law (resolution No. 30 of 10 April 1998 on freedom of religion and faith under article 16, paragraph 1, of the Charter, compared to article 18, paragraph 1, of the International Covenant on Civil and Political Rights). The Constitutional Court adopted a concept for the interpretation of many concepts and the overall approach to issues of protection of human rights and fundamental freedoms analogous to that of the European Court for Human Rights; by doing so it significantly contributes to strengthening the values and foundations of a democratic society, founded on respect for human rights and fundamental freedoms.

45. The Constitutional Court is composed of 15 judges appointed by the President of the Republic for a period of 10 years, who is entitled to file an application for proceedings and under what conditions, as well as other rules of proceedings before the Constitutional Court, are set by law. In their decision-making, the Constitutional Court judges are bound only by constitutional acts, international treaties under article 10 of the Constitution of the CR and the Act on the Constitutional Court and proceedings before it. Executable decisions of the Constitutional Court are binding for all bodies and persons.

46. The State prosecutor's office[18] files complaints in the name of the State in criminal proceedings, performs the duties assigned to it in connection with them by the Criminal Procedure Code,[19] and also performs other tasks, if so provided by law, e.g. the Civil Procedure Code.[20] The system of State prosecutor's offices consists of the Supreme State Prosecutor's Office, high, regional, and district State prosecutor's offices.

F. Protection of human rights

47. The Constitution of the Czech Republic was adopted on 16 December 1992. Under the Constitution, the Czech Republic is a sovereign, unitary, and democratic State governed by the rule of law, founded on respect for the rights and freedoms of human beings and of citizens. All citizens may do that which is not prohibited by law; and nobody may be compelled to do that which is not imposed upon her by law. Fundamental rights and freedoms enjoy the protection of the judicial power. Under article 3 of the Constitution, the constitutional order also includes the Charter of Fundamental Rights and Freedoms[21] (the "Charter"). The Charter recognizes the inviolability of the natural rights of a human being, the rights of a citizen, and the sovereignty of the law.

48. The Charter implements into the legal order the major part of rights set forth in the International Covenant on Civil and Political Rights and in the International Covenant on Economic, Social and Cultural Rights. Inclusion of the Charter in the constitutional order of the Czech Republic was ensured by including the corresponding provisions of both Covenants in the legal order. In addition, by a constitutional act[22] the CR assumed all obligations which arose to the CSFR under international law as of the day of its dissolution (except obligations related to territory to which the sovereignty of the CR does not extend). This measure ensured continuity of observance of all obligations of the former federation and the Czech Republic, even over and above the framework of obligations arising from the Charter.

49. Legal norms concerning human rights and fundamental freedoms are contained not only in the Constitution of the CR and the Charter of Fundamental Rights and Freedoms, but also in substantive law and procedural law regulations of civil, criminal and administrative law (the Civil Code and the Civil Procedure Code, the Criminal Code and the Criminal Procedure Code, the Administrative Procedure Code)[23] and other legal regulations.

50. All constitutional acts, statutes and generally binding legal principles in effect in the Czech Republic, i.e. including the texts of ratified international treaties, are promulgated in the Collection of Laws and published in a commented version with references to case law.[24] Under section 9 of the Act on the Collection of Laws of the Czech Republic[25] all municipalities are required to obtain at least one copy of the Collection of Laws and ensure that it is accessible to everyone. In the report period, accessibility of legal regulations was also ensured by a Decree on Compulsory and Working Copies.[26] Under this decree, the Collection of Laws was required to be sent free of charge by the publisher, in one to five copies, to all district public libraries, libraries of institutions of higher education and scholarly libraries and archives.[27] The Collection of Laws is also accessible in electronic form on the Internet.

51. Protection of rights under article 2 of the International Covenant on Civil and Political Rights, and under articles 2 and 4 of the International Covenant on Economic, Social and Cultural Rights, is provided primarily through the institution of a constitutional complaint, which can be submitted to the Constitutional Court by:

(a) A natural person or legal entity, against a legally effective decision or other measure by a public authority, if the person or entity believes that there has been a violation of its fundamental right or freedom guaranteed by a constitutional act or international agreement on human rights and fundamental freedoms by which the CR is bound;

(b) A local administrative body, against illegal interference by the State;

(c) A political party, against a decision to dissolve it, or against another unconstitutional or illegal decision about its activities.

52. Together with a constitutional complaint, a proposal can be submitted to annul a legal regulation or part of one, if the fact which is the reason for the constitutional complaint arose through application of that regulation and if, according to the plaintiff, that regulation conflicts with constitutionally or internationally guaranteed rights and freedoms.

53. The law governs proceedings before the Constitutional Court in accordance with generally recognized democratic principles of court proceedings: the proceedings are public, decision making is independent and unbiased, the participants have equal status and are entitled to use their native language.

International treaty documents on human rights

54. The Czech Republic ratified and is bound by the following important international and regional legal documents on human rights:

- International Convention on the Elimination of All Forms of Racial Discrimination;
- International Covenant on Civil and Political Rights and International Covenant on Economic, Social and Cultural Rights;
- Convention on Elimination of All Forms of Discrimination against Women;
- Convention on the Rights of the Child;
- Convention for the Protection of Human Rights and Fundamental Freedoms and Protocols to this Convention;
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- Framework Convention for the Protection of National Minorities;
- European Social Charter and Protocols to the Charter.

55. The texts of ratified international treaties and other important international documents are published in the Collection of Laws in the Czech language.[28] The texts of initial and periodic reports on fulfilment of obligations arising from international covenants and conventions are published in print (usually by the responsible compiler/ministry) and on the Internet. The introductory report on fulfilment of the Covenant will be published and disseminated in the same manner.

56. An important element of the Czech legal order is the constitutional principle set forth in article 10 of the Constitution of the Czech Republic, under which ratified and promulgated international treaties on human rights and fundamental freedoms by which the Czech Republic is bound are directly applicable, and have precedence over the law. This fact was also expressly stated in a decision of the Constitutional Court of the Czech Republic.[29]

57. The protection of the rights and freedoms of the European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols is guaranteed by the mechanism of the European Court of Human Rights. Reform of the Court in the form of Protocol No. 11 to the Convention, reinforced this protection. The Convention entered into force for the CSFR on 18 March 1992 and for the Czech Republic on 1 January 1993. Protocol No. 11 to the Convention, implementing the new control mechanism, entered into force on 1 November 1998.

58. In May 1999 the Parliament of the Czech Republic passed the Act on Freedom of Access to Information,[30] which permits provision of information related to the jurisdiction of State bodies and territorial self-government bodies. It also sets conditions under which the information is provided. The Act goes into effect on 1 January 2000.

Protection of human rights at the level of central State administrative bodies

59. Individual areas of protection of human rights were monitored until 1998 within the jurisdiction of individual ministries (particularly the Ministries of Labour and Social Affairs, Education, Youth and Sports, the Interior, Justice, Culture, Health, and the Minister without Portfolio); monitoring and evaluating fulfilment of international obligations was the responsibility of the Ministry of Foreign Affairs.

60. In 1998 the Government created the position of a government commissioner for human rights.[31] The creation of the Council for Human Rights of the Government of the Czech Republic (the "Council").[32] was a key institutional measure for improvement of the existing situation and also a response to the demands of international organizations for institutional safeguarding of the protection of human rights in the country. The Council is a consultative and coordinating body of the Czech Government for issues of protection of human rights and fundamental freedoms of persons in the jurisdiction of the CR. The Council:

(a) Monitors the condition of human rights and fundamental freedoms in the country, as they are enshrined in the Charter of Fundamental Rights and Freedoms;

(b) Monitors domestic fulfilment of the CR's international obligations in the area of protection of human rights, particularly fulfilment of international treaty documents set forth in paragraph 49 above;

(c) Ensures fulfilment of the Government's obligations arising from international treaties and, in cooperation with the Ministry of Foreign Affairs, submits reports to the supervisory mechanisms of these treaties to the appropriate international organizations (the United Nations, the Council of Europe), if these tasks are not assigned to other State administration bodies;

(d) Submits to the Government, through the deputy prime minister and chairman of the Legislative Council of the Government, information, proposals and positions concerning fulfilment of obligations arising from international treaties by which the CR is bound or to which it is preparing to accede;

(e) Presents to the Government, annually by the end of March, a Report on the Status of Human Rights in the CR for the previous year;

(f) Monitors the observance of the human rights of foreigners.

61. Until the Council was created, no procedures, including organizational ones, were created and institutionalized which ensured the positive participation of the public, primarily non-governmental organizations. In the Council, conditions for cooperation with non-governmental non-profit organizations were created. The State administration, at the level of deputy ministers, and of the general public are represented in equal measure in the Council. At present the Council has 20 members in addition to the Chairman and Vice-Chairman. The Chairman of the Council is the government Commissioner for Human Rights.

62. In the report period the Czech Republic had not created the institution of a public protector of rights (ombudsman), who would provide protection from illegal or otherwise incorrect decisions or proceedings by government offices. The Act on the Public Protector of Rights was passed in December 1999 and published in the Collection of Laws on 30 December 1999.[33] Under this Act, the public protector of rights in the CR may enter into the proceedings of ministries, district and financial offices and other State administrative bodies; his jurisdiction also extends to the police, the army, the prison services, and protective and treatment institutions. He does not have the authority to force a given office to take certain actions, but the law authorizes him to report inadequacies to a higher body or the Government, or to make a matter public. He cannot interfere with the activities of the Parliament, the President of the Republic, the Government, the Supreme Audit Office, State prosecutor's offices, or the courts. The law does not permit the ombudsman to represent citizens in court. Under section 28 of the cited Act, the Act on the Public Protector of Rights will go into effect 60 days after its promulgation in the Collection of Laws - 28 February 2000.

Non-governmental non-profit organizations

63. Non-governmental non-profit organizations play an important role in the protection of human rights. Through generally beneficial activities, aimed at promoting better conditions for a certain population group or strengthening the identity of its members, they promote some of the fundamental human rights set forth in the basic documents: the Constitution, the Charter, the Universal Declaration of Human Rights and other norms.

64. Non-governmental non-profit organizations are organizations which are an expression of voluntary participation by citizens in fulfilment of mutually or generally beneficial aims. They are not established or operated with the participation of State bodies, and the purpose of their activities is not to earn profits. They are:

(a) Civic associations[34] (groups, unions, clubs, etc.): associations of citizens, i.e. particularly natural persons, for a certain purpose. Legal entities may also be members. The law does not further specify the division of associations by purpose. From the day the Act on Association of Citizens went into effect (1 May 1990) until the end of 1999 the Ministry of the Interior registered over 42,000 civic associations, approximately 33,000 of them in the report period;

(b) Special purpose facilities of Churches:[35] registered Churches autonomously, independently of the State, establish and operate their special-purpose facilities, through which they implement their charitable, social, educational and cultural aims. These entities provide publicly accessible services, usually on a high professional level. According to information from the Ministry of Culture, registered Churches currently operate 168 special-purpose facilities with their own legal status;

(c) Public service societies[36] are legal entities which provide the public with generally beneficial services under predetermined conditions, equal for all users. Neither the founders, members nor employees of their bodies may use their profits for their own benefit.

The law provides that this kind of company must use its profits to provide the services stated in its founding deed. In 1999, 480 public service societies were registered in the register kept by the register court;

(d) Foundations and foundation funds[37] are special-purpose associations of assets established for purposes of achieving generally beneficial aims. To achieve its aims, a foundation may use revenues from its assets and other property. The total value of a foundation's assets may not fall below a minimum of CK 500,000 during the entire period of the foundation's existence. In contrast, a foundation fund may use all its assets for its purpose, which is more a one-time goal. Foundation assets and other property may consist of money, securities, real estate and chattels, property rights and other assets which meet the prerequisite of permanent revenue and are not subject to any lien rights. In 1999 there were 245 foundations and 607 foundation funds listed in the foundation register kept by the register court.

65. Subsidies from the State budget are provided to finance the activities of civic associations, generally beneficial companies, and special-purpose facilities of Churches. At present, 11 ministries provide State subsidies. The subsidies are fully in their jurisdiction, and are provided in the form of co-financing one-year projects which the non-governmental non-profit organizations submit on the basis of an agreement concluded between the ministry and the subsidy recipient. A recipient must use and account for subsidies in the calendar year in which they were provided. The provision of subsidies is governed by the following regulations:

(a) The State Budget Rules.[38] In July 1999 the Government approved a substantive outline of new budget rules.[39] The new budget rules will introduce the definition of State subsidy policy, lacking until now, and rules for providing subsidies and returnable financial assistance from the State budget and proceedings for removing them. It is expected that more detailed conditions for the provision of State subsidies to non-profit organizations will be provided by a special law;

(b) In the report period, provision of subsidies from the State budget was governed by the Rules for Providing Subsidies from the State Budget.[40] The Government's new Rules for Providing Subsidies from the State Budget of the CR to Civic Associations,[41] in effect as of 1 January 2000, address the provision of subsidies more suitably than the previous rules, and, in particular, solve certain problems which appeared from the subsidy practices of past years (wider opportunities to pay salaries, evaluation of selection proceedings by the end of the previous calendar year, regulation of salaries provided from State subsidies, more precise conditions for providing investment subsidies and unification of conditions for providing subsidies for all ministries);

(c) One-year agreements on the provision of State subsidies, concluded by a central State administrative body - the subsidy donor - with the subsidy recipient. This practice will also be replaced by the new budget rules, as it is not regulated by law and leads to a number of problems (it doesn't set penalties for failure to fulfil contractual obligations, etc.).

66. Non-governmental non-profit organizations' sources of income may be (in summary) the following: income from the organization's own activities, membership contributions for most civic associations, which are membership corporations, a foundation investment fund, support from municipal budgets, domestic and foreign foundation sources, the business sphere (sponsorship gifts), public collections and gifts from natural persons, part of the income from lotteries and games, tax and fee reductions.

67. In 1999, the Government Council for Non-Governmental Non-Profit Organisations, whose Chairman is the Minister without Portfolio, prepared the first extensive analysis of the financing from the CR State budget of civic associations, special-purpose facilities of Churches, generally beneficial companies, foundations and foundation funds. After discussing the analysis, the Government charged its ministers, by the end of 1999, to prepare a method outline of nationwide priorities in State subsidy policy toward non-governmental non-profit organizations, unify basic technical and organizational rules for providing State subsidies; by the middle of 2000, to standardise record-keeping about these subsidies; by the end of 2000, to implement uniform criteria for entering information about them in the information system of the Central Subsidy Register.[42]

Amount of State subsidies distributed to non-governmental non-profit organizations

Ministry	State subsidy			
	1998		1999	
	Thousand CK	%	Thousand CK	%
Agriculture	38 192	2	48 200	2
Culture	79 608	4	91 491	4
Finance	35 700	2	38 450	2
Foreign Affairs	15 800	1	19 500	1
Interior	67 826	4	53 195	2
Environment	19 350	1	19 350	1
Education, Youth and Sports	652 490	34	971 466	47
Labour and Social Affairs	659 933	35	644 068	30
Health	311 379	16	221 931	10
Industry and Trade	5 530	0	7 800	0
Local Development	13 107	1	13 536	1
Total	1 898 915	100	2 128 987	100

Source: Ministry documentation for the Analysis of Financing Civic Associations, Special-Purpose Facilities of Churches, Public Service Societies, Foundations and Foundation Funds from the State Budget.

**State subsidies by main area of activity (inter-ministerial)
(Including Church activities and operation of private schools and the Fund of the Future)**

Area of activity	1998		1999	
	Thousand CK	%	Thousand CK	%
Culture	69 608	2	82 991	2
Education and research	194 090	4	14 689	0
Private and parochial	511 988	12	621 514	17
Health	638 628	15	451 291	12
Social	435 571	10	391 678	11
National minorities	46·324	1	48 735	1
Ecology	19 640	4	19 693	1
Leisure time of children and youth	133 622	3	174 724	5
Sports	545 033	12	824 837	23
Sports - lotteries	825 774	19	-	-
Church	647 791	15	776 131	21
Other	306 383	7	240 000	7
Total	3 548 678	100	3 646 283	100

Source: Ministry documentation for the Analysis of Financing Civic Associations, Special Purposes Facilities of Churches, Public Service Societies, Foundations and Foundation Funds from the State Budget.

68. The Government Council for Non-Governmental Non-Profit Organisations is also preparing materials for a government decision on further use of funds intended for the Foundation Investment Fund (Nadaèni investièni fond), for the benefit of foundations.[43] The first phase of distributing funds for support of foundation activity took place in 1999, when funds acquired by selling shares of entities owned by the State, and gathered in a special account of the National Property Fund, in the amount of CK 500 million were distributed. The money was divided among the following areas: social and humanitarian, health care, culture, human rights protection, environmental protection, education and others.

69. Relatively new civic associations, but very important in terms of their purpose, operating in the Czech Republic in the area of human rights since 1997 are the so-called citizens' advice bureaux. A citizens' advice bureau is an institutionalised form of general counselling, organized by non-governmental entities, which provides free, independent, confidential and unbiased services to individual citizens. Their aim is to ensure that citizens will not suffer from not knowing their rights and obligations, not being familiar with available services, or an inability to effectively express their needs. On the basis of an analysis of citizens' problems the advice bureaux inform the appropriate State and local authorities about inadequacies in legislation and unsolved problems. The advice bureaux work on the British model of Citizens Advice Bureaux and form a nationwide network.

70. At the end of 1999 the Association of Citizens' Advice Bureaux (established in February 1997) included 9 advice bureaux and registered 40 new applicants for membership. Advice bureaux in the Association are bound to use uniform methods. Member organizations of

the Association work with the Czech bar association; in 1997 to 1999 they received financial support particularly from the British Know-How Fund, the Ministry of Labour and Social Affairs, the SWIF fund (within the National Education Fund) and the Foundation for Development of a Civic Society. The citizens' advice bureaux are already an indispensable component of social work. In February 1998 the CR Government approved the substantive outline of an Act on Social Assistance, which relies on citizens' advice bureaux as one of the services of social work.

G. International cooperation

71. The Czech Republic involvement in international institutional structures plays an important role in international cooperation in the protection of human rights, including economic, social and cultural rights.

The Czech Republic's membership in selected international governmental organizations

Organization	Czech abbreviation	International abbreviation	Membership since	
			CR	CSR
United Nations	OSN	UN	1993	1945
Organization for Security and Cooperation in Europe	OBSE	OSCE	1993	1975
Council of Europe	RE	CE	1993	1991
Food and Agriculture Organization of the United Nations	FAO	FAO	1993	1945
United Nations Educational, Scientific and Culture Organization	UNESCO	UNESCO	1993	1945
World Health Organization	WHO	WHO	1993	1946
International Labour Organization	ILO	ILO	1993	1919
International Bank for Reconstruction and Development	IBRD	IBRD	1993	1945
International Development Association	IDA	IDA	1993	1990
World Intellectual Property Organization	WIPO	WIPO	1993	1970
European Bank for Reconstruction and Development	EBRD	EBRD	1993	1990
International Institute for Unification of Private Law	UNIDROIT	UNIDROIT	1993	1968
International Criminal Police Organization	INTERPOL	INTERPOL	1993	1990
International Organization for Migration	IOM	IOM	1995	
Organisation for Economic Cooperation and Development	OECD	OECD	1995	
International Centre for the Study of the Preservation and Restoration of Cultural Property	ICCROM	ICCROM	1995	

72. In connection with the prepared entry into the European Union (the "EU"), the Czech Republic makes use of technical and financial assistance from the EU, primarily through the PHARE programme. Funds released to the Czech Republic from 1995 to 1997 reached a total of 224 million ecu. The assistance is shared between the European Investment Bank, the European Bank for Reconstruction and Development, the World Bank and other financial institutions. Technical and financial assistance is concentrated on:

(a) Building institutions (about 30 per cent): strengthening democratic institutions, the State based on the rule of law and public administration through training events, technical assistance, and harmonization with the structure of bodies in EU member States. It also concentrates on protection of intellectual property, protection of the environment, integration of the Roma, developing welfare protection, achieving equal opportunity for women and men, etc.;

(b) Investment support (about 70 per cent) with the aim of ensuring necessary investments which will permit the Czech Republic's infrastructure to be adapted to the acquis communautaire. This support concentrates on restructuring of agricultural production, regional development, and investment into human and intellectual capital (including ensuring participation in the framework programme for research and technological development). It also concentrates on meeting Community norms in environmental protection, agriculture, industry, work safety and health, transportation and telecommunications. Projects for developing small and medium-sized businesses are also supported.

II. IMPLEMENTATION OF SPECIFIC ARTICLES OF THE COVENANT

Article 1

Paragraph 1

73. The Czech Republic came into existence on 1 January 1993 by the division of the former Czech and Slovak Federal Republic, as a sovereign State founded on democratic principles, where people are free and equal in dignity and in rights. The Czech Republic, as a democratic country, freely determines its political status and freely implements its political, economic, social and cultural development. The foundation for this free decision-making about the affairs of the Czech Republic is its Constitution.

74. As provided in article 2 of the Constitution, the people exercise all State power through the bodies of legislative, executive and judicial power. Under article 5 of the Constitution, the political system is founded on the free and voluntary formation of and free competition among those political parties which respect the fundamental democratic principles and which renounce force as a means of promoting their interests. Political decisions are based (under article 6 of the Constitution) on the will of the majority manifested in free voting, and the decision-making of the majority takes into consideration protection of minorities.

75. As a sovereign State, the Czech Republic is an independent entity in international politics and a subject of international law. The globalization process, on the one hand, and regionalization on the other hand, i.e. processes which lead to transferring part of a State's

decision-making powers to the level of international organizations, in the first case, and to a lower administrative and organizational level in the second case, restrict the State's decision-making autonomy.

76. Under article 11 of the Constitution, the territory of the Czech Republic forms an indivisible whole, whose national boundaries may be changed only by a constitutional act. Territorial self-governing units, which are part of it, are territorial communities of citizens with the right to self-government. A territorial self-governing unit can be created or dissolved only by a constitutional act. The State may intervene in their affairs only if it is required for the protection of law, and only in a manner provided by law.

77. The Czech Republic assumed the international obligations of the CSFR, including obligations arising from the International Covenant on Economic Social and Cultural Rights and the International Covenant on Civil and Political Rights.[44] The rights contained in both Covenants are implemented primarily in the relevant provisions of the Constitution and of the Charter.

78. The right to self-determination is also supported in Article 3 of the Charter, which reads:

> "(1) Everyone is guaranteed the enjoyment of his/her fundamental rights and freedoms without regard to gender, race, colour of skin, language, faith and religion, political or other conviction, national or social origin, membership in a national or ethnic minority, property, birth, or other status.
>
> "(2) Everybody has the right freely to choose his/her nationality. It is prohibited to influence this choice in any way, just as is any form of pressure aimed at suppressing a person's national identity.
>
> "(3) Nobody may be caused detriment to his/her rights merely for asserting his/her fundamental rights and freedoms."

Paragraph 2

79. The Preamble to the Constitution contains a resolution "to guard and develop together the natural and cultural, material and spiritual wealth ...". A prerequisite for fulfilment of this part of the preamble and the State's obligation to accept laws and other legal regulation is article 7 of the Constitution. Under this article, "the State shall concern itself with the prudent use of its natural resources and the protection of its natural wealth".

80. Nothing prevents the Czech Republic from disposing of its natural wealth and resources without detriment to any obligations arising from international economic cooperation, founded on reciprocal benefit and international law. Because no such circumstances exist, they also do not influence the enjoyment of other rights protected by the Covenant.

81. Natural wealth and natural resources, as an essential part of external living conditions, are the subject of unified and independent legal regulation of the environment. The framework law is the Act on the Environment.[45] This law primarily formulates the basic principles for

protection of the environment and defines basic concepts. Under section 1, the Act on the Environment is based on the principle of permanently sustainable development, and sections 11 to 16 set forth the basic rules for protection of the environment.

82. The intensive exploitation of natural wealth bordering on devastation of the environment which took place until 1990 was restricted during the 1990s, with the increasing importance of the services and processing industry sector in the national economy. Public interest in the protection of and care for the environment is expressed in a set of laws (see the text on article 12 of the Covenant paragraph 2 (b)), concerning all main components of natural wealth and the environment. These laws concern protection of water, air, the earth, nature and the countryside, but also waste management, minerals mining, nuclear safety, food chains and evaluation of complex influences on the environment. Given the limited resources of natural wealth, their exploitation is inseparable from protection.

Paragraph 3

83. The Czech Republic is part of the joint efforts of democratic countries to build and strengthen the community of peace, security, cooperation, democracy and prosperity. It strives to create an international community in which force is an unacceptable method of resolving disputes between States, in which threats and risks are jointly identified and addressed, and in which various forms of political and economic cooperation are developed.

84. The Czech Republic bases its relationships with other States on the principle of peaceful cohabitation and economic and cultural cooperation, in accordance with the principles of the Charter of the United Nations. It promotes international cooperation according to the principle of reciprocal benefit and non-interference in the internal affairs of a foreign State. On the other hand, it understands the importance of shared responsibility and international solidarity, and is prepared to take part in all activities that lead to strengthening confidence in international relations and ensuring security.

85. The Czech Republic has no territorial claims against neighbouring States and none are made against it. It is not responsible for administration of any non-self-governing or trust territories. Its relations with the other successor State to the former CSFR, the Slovak Republic, are non-conflicting, orderly, and, since 1998, even friendly and better than standard.

86. The Czech Republic is a member State of the Council of Europe. It uses its membership to develop and strengthen European legal and ethical values, pluralist democracy, a State based on the rule of law, and protection of human rights and minority rights.

87. The Czech Republic has entered the European integration process and is seeking membership in the European Union. The legal foundation for relations between the Czech Republic and the European Communities is the "Europe agreement establishing an association between the European Communities and their member States, of the one part, and the Czech Republic, of the other part, of 1993", which entered into force on 1 February 1995. On 17 January 1996 the Czech Republic submitted an application for membership, and in 1998 it began negotiations on accession to the EU.

88. In March 1999 the Czech Republic became a member State of the North Atlantic Treaty Organization (NATO). It thus joined an important international organization for collective defence.

Article 2

Paragraph 1

89. Most rights and obligations arising from the International Covenant on Economic, Social and Cultural Rights and from the International Covenant on Civil and Political Rights are part of a constitutional act - the Charter. The fundamental rights and freedoms from the International Covenant on Economic, Social and Cultural Rights governed by the Charter enjoy the protection of the judicial power. Under article 36, paragraph 1, of the Charter, "everyone may assert, through the legally prescribed procedure, his/her rights before an independent and impartial court or, in specified cases, before another body".

90. Article 10 of the Constitution, under which "ratified and promulgated international treaties concerning human rights and fundamental freedoms which have been duly ratified and promulgated and by which the Czech Republic is bound are directly applicable and take precedence over statutes", plays an important role by the interpretation of the Covenant, acts and other legal regulations.

91. Steps taken by the Czech Republic to achieve full implementation in the economy of the rights recognized by the Covenant were directly connected to the transformation of the economy which started in 1990 and its transition to a market economy. However, there was a simultaneous effort to maintain general prosperity and a just and effective redistribution through the State budget.

92. Economic transformation in the Czech Republic, a process unconditionally necessary in order to achieve long-term economic growth permitting real fulfilment of the rights recognized by the Covenant, included the following steps:

(a) Setting basic conditions for the development of private enterprise, particularly legislative (basic regulations on individual enterprise, on corporations, about State companies, the Bankruptcy and Settlement Act, on economic competition, amendment of the Commercial Code, the Trades Licensing Act, etc.);

(b) Liberalization of prices, which aimed to adjust prices deformed by the centrally planned economy;

(c) Liberalization of foreign trade - the State monopoly on foreign trade was cancelled at the beginning of the transformation. Restructuring tariffs and abolishing the Council for Mutual Economic Cooperation led to a shift in exports from Eastern European markets to the markets of member countries of the Organisation for Economic Cooperation and Development,[46] particularly Western European countries. European Union countries' share of the Czech Republic's exports in 1999 was almost 70 per cent, and the European Union's share of the Czech Republic's total imports was roughly 65 per cent;

(d) Privatization and restructuring - this step fundamentally changed the ownership structure in the national economy. The process of privatization and restructuring is not finished yet; experts today consider the use of the coupon privatization method very problematic. In an attempt to address the unfavourable situation, the Government, in April 1999, approved a programme to solve the economic problems of several industrial businesses through revitalization and restructuring;[47]

(e) Setting the exchange rate - after the initial sharp devaluation of internal convertibility and a strongly pro-export economic policy, external convertibility was achieved in 1995, and in 1997, after introducing a floating exchange rate, all exchange restrictions were removed;

(f) Comprehensive tax reform - the tax system has been standardized since 1993; value added tax was instituted and indirect taxes were strengthened at the expense of direct taxes;

(g) Internal institutional economic and political changes - since its creation the Czech Republic has been a member State of the International Monetary Fund[48] and the World Bank, the World Trade Organization[49] and other international economic organizations; the Czech Republic is also a party to the Central European Free Trade Agreement[50] and has begun the process of integration into the European Union.

93. One of the criteria used to judge the suitability of steps during privatization was maintaining low unemployment, and thereby also social peace. When evaluating privatization projects under the decree of the Ministry for Administration and Privatization of National Property,[51] the creation of jobs was also considered. This criterion was also used in privatization by direct sale. Support for employment was also reflected in the conditions for State support for the development of business, particularly in areas most affected by structural changes.

94. One of the basic instruments contributing to free economic, social and cultural development is regional policy. The basic framework for support of regional development is defined in the Principles of Regional Policy which the Government approved in 1998. In this document, regional policy is understood as a planning activity by the State, regional and local authorities, whose aim is to contribute to balanced and harmonic development of the various regions of the CR, to decrease differences between the level of development in individual regions, and to improve the regional economic structure.

95. The Principles of Regional Policy were adopted with the provision that they were to bridge the period until an act on support of regional development was prepared and went into effect. The Government charged the Minister for Local Development with preparing a draft act. The law is expected to go into effect in 2001.

96. In connection with the Czech Republic's ongoing preparations for acceptance into the European Union, the main benefit of the Principles of Regional Policy and the new act on support of regional development lies primarily in creating conditions for harmonizing Czech regional policy with the regional policy of the Union, particularly basic principles of regional policy, their instruments, institutional safeguarding etc.

97. In July 1999 the Government discussed and took cognizance of a proposed Regional Development Strategy. This is a basic concept document for regional policy in the CR for the coming period, roughly until 2010. The Regional Development Strategy will serve first as a concept document for regional policy in the Czech Republic, on the basis of which programme documents will be prepared at the nationwide and, subsequently, also the regional level, and will also be a starting base for development programmes connected to the structural funds of the European Union.

Paragraph 2

98. The non-discrimination principle is contained in:

(a) Article 1 of the Charter: "All people are free, have equal dignity, and enjoy equality of rights. Their fundamental rights and freedoms are inherent, inalienable, non-prescriptible, and not subject to repeal."

(b) Article 3 of the Charter, paragraph 1: "Everyone is guaranteed the enjoyment of his/her fundamental rights and freedoms without regard to gender, race, colour of skin, language, faith and religion, political or other conviction, national or social origin, membership in a national or ethnic minority, property, birth, or other status."

Article 3, paragraph 3, of the Charter states that nobody may be caused detriment to his/her rights merely for asserting his/her fundamental rights and basic freedoms. The prohibition of discrimination is also contained in article 24 of the Charter, which states "that a person's affiliation with any national or ethnic minority group may not be to his/her detriment". These principles apply fully to the rights contained in chapter four of the Charter, i.e. to economic, social and cultural rights.

99. We also refer to the initial and periodic reports of the Czech Republic on fulfilment of obligations arising from the International Convention on the Elimination of All Forms of Racial Discrimination.

100. In the following text we refer to reports on implementation of International Labour Organization Conventions No. 100 on Equal Remuneration and No. 111 on Discrimination in Employment and Occupation.

101. An express prohibition of discrimination is contained in the amendment to the Employment Act,[52] which went into effect on 1 October 1999. Section 1, paragraph 1, reads: "The right to employment (work) cannot be denied to a citizen because of his/her race, colour, sex, sexual orientation, language, faith or religion, political or other conviction, membership or activity in political parties or political movements, union organizations and other associations, nationality, ethnic or social origin, property, family, health, age, marital and family status or obligations to his/her family, except where this is stipulated by law or cases where there is a factual ground consisting in the preconditions, requirements and nature of the employment (work), which a citizen is to perform and which is necessary for performance of this employment" (see also the text to article 6 of the Covenant). A State body supervising

observance of labour law regulations and employment regulations (i.e. the area labour office) may impose sanctions for an employer's violation of this principle. In addition, section 1, paragraph 2, of the Act also forbids discriminatory advertising: "Parties to legal relationships created under this Act may not be offered employment (work) contrary to the provisions of paragraph 1." An injured person may seek individual protection through the courts.

102. The principle of forbidding discrimination is also observed by (though not expressly set forth in) generally binding legal regulations governing education and the education system, particularly the main laws, which are: the Act on the System of Elementary Schools, Secondary Schools and Post-secondary Occupational Schools (the "Schools Act"),[53] the Act on State Administration and Local Administration in Education,[54] the Act on School Facilities[55] and the Act on Universities,[56] which proclaims the democratic principles of access to higher education, obtaining appropriate professional qualifications and preparation for research and other specialized activities, under which no one may be discriminated against on the basis of skin colour, gender, religion, national or social origin or membership in an ethnic group. The anti-discrimination principle is also contained in the Act on Public Health,[57] which, among other things, also governs licensing of health-care workers educated abroad.

103. The prohibition of discrimination is also contained in section 6 of the Consumer Protection Act:[58] "When selling products or providing services, the seller may not behave in conflict with good morals; in particular, he may not in any way discriminate against the consumer." Supervision of observance of the non-discrimination obligation (supervision of consumer protection) is performed by the Czech Commercial Inspection under section 23 of the Act.

104. The appropriate State government body (in the case of discrimination, the Czech Commercial Inspection) may impose a fine of up to CK 500,000 for violation of obligations provided by the Consumer Protection Act; in setting the fine, the nature of the illegal activity and the extent of its results are taken into account.[59] In practice, discrimination is considered proven if it is found during any (including random) inspection carried out by the Czech Commercial Inspection. A fine of up to CK 1 million can be imposed for repeated violation of obligations during one year (section 24 of the Consumer Protection Act). Proceedings under section 23 and section 24 of the cited Act are subject to general regulations on administrative proceedings.[60]

105. The prohibition of discrimination contained in the legal order is not always thoroughly observed in practice. Situations in which discrimination occurs for various reasons are described in the texts on articles 3 and 6 of the Covenant.

Guarantees for protection of foreigners' rights

106. Article 42 of the Charter states in paragraphs 2 and 3:

> "(2) Aliens enjoy in the Czech and Slovak Federal Republic the human rights and fundamental freedoms guaranteed by the Charter, unless such rights and freedoms are expressly extended to citizens alone.

> "(3) Wherever legal enactment in force employ the term 'citizen', is to be understood to refer to every individual if it concerns the fundamental rights and freedoms that the Charter extends to everybody irrespective of his/her citizenship."

107. Fundamental human rights and freedoms, guaranteed by the Charter regardless of citizenship, include the right to life (art. 6); the inviolability of the person and of his/her private life (no one may be subjected to torture or to cruel, inhuman, or degrading treatment or punishment (art. 7)); a guarantee of personal liberty (art. 8); prohibition of forced labour or service (art. 9); the right to preservation of human dignity, personal honour, good reputation, protection from unauthorized interference in private and family life, and protection from unauthorized gathering, publication or other misuse of personal data (art. 10); inviolability of his/her dwelling (art. 12); protection of confidentiality of correspondence (art. 13); liberty of movement and the freedom of the choice of residence (art. 14); freedom of thought, conscience, and religious conviction (art. 15); and free expression of religion (art. 16).

108. Limitations in chapter one of the Charter appear only in article 11, which concerns ownership. Paragraph 2 states: "The law may also provide that certain items of property may be owned exclusively by citizens or legal persons with their headquarters in the Czech and Slovak Federal Republic."

109. Chapter three of the Charter, which guarantees the rights of national and ethnic minorities, states in article 24 that membership in any national or ethnic minority may not be to anyone's detriment, i.e. including a foreigner. However, positive rights (art. 25) - the right to develop their own culture, the right to receive information in their native language and associate in national associations and the right to education in their own language, their right to use their language when dealing with officials and the right to participate in the resolution of matters concerning national and ethnic minorities - apply only to citizens of the Czech Republic.

110. Chapter four of the Charter, article 26, guarantees everyone, i.e. including foreigners, the right to a free choice of profession, training for it, and the right to run a business and conduct other business activities; it also guarantees everyone the right to acquire the means for his/her needs by work. However, material security in the event that someone is unable to exercise this right through no fault of his/her own is guaranteed only to citizens. Article 27 of the Charter also guarantees foreigners the right to associate in trade unions, for example.

111. Some other provisions which concern economic, social and cultural rights apply only to citizens of the Czech Republic, particularly articles concerning participation in the social security system. Thus, for example, only citizens have a right to commensurate material security in old age and during work disability or upon loss of a provider (art. 30) and only citizens have the right, based on public health insurance, to free health care (art. 31). Under article 30 of the Charter everyone - including foreigners - who suffers from material need has a right to only such assistance as is necessary to ensure a basic living standard. However, laws governing economic, social and cultural rights also give many rights to foreigners, either based on resident status or based on employment status.

112. The Czech legal order gives foreigners with permanent residence basically the same status as citizens. The most important exceptions are that they do not have the right to vote and are not subject to military service. In the report period, under section 7 of the Act on the Residence of Foreigners in the Czech Republic[61] (also the "Foreigners Act") a permanent residence permit could be issued for purposes of family unification if a spouse, relative in a direct line or a sibling of the foreigner had permanent residence in the Czech Republic. It was also possible to issue a permit in humanitarian cases or if the residence was justified on grounds of the Czech Republic's foreign policy interests.

113. Chapter five of the Charter, which guarantees the right to judicial and other legal protection, applies fully to foreigners.

114. In the report period, conditions for entry and stay of foreigners in the Czech Republic were set by the Act on Foreigners' Stay and Residence. The actual proceedings in which foreigners apply for long-term residence in the Czech Republic took place under the relevant provisions of the Act on Administrative Proceedings.[62] If an application was denied, a foreigner had the right to use all ordinary and extraordinary appeals under that Act. Giving foreigners the right to judicial review of administrative decisions made under the Foreigners Act, which considerably strengthened the legal security of foreigners, was based on a decision of the Constitutional Court of the CR (No. 160/1998 Coll.), which abolished, with effect as of 13 May 1999, section 32, paragraph 2, of the Act on Foreigners' Stay and Residence, which considerably restricted the right to judicial protection. A second decision (No. 159/1998 Coll.) concerned repealing a prohibition on stay in situations of an obligation (unspecified) imposed by a generally binding legal regulation and granting the suspensive effect of an appeal against a ban on stay.

115. In view of the fact that the previous Foreigners Act no longer met actual needs in the changing situation, the Government submitted a new draft Act on the Residence of Foreigners in the Czech Republic. The new Act on the Residence of Foreigners was approved and went into effect on 1 January 2000.[63]

116. Refugees and applicants for refugee status are a special category among foreigners. Article 43 of the Charter states that the Czech Republic grants asylum to foreigners who are persecuted for exercising their political rights and freedoms. Asylum may be denied to someone who acted contrary to fundamental human rights and basic freedoms. Another legal regulation governing the status of refugees is the Convention relating to the Status of Refugees.[64] In the report period, the domestic law in effect was the Refugees Act.[65] This Act governed not only the proceedings on the legal status of refugees, but also their actual status.

117. In the report period, the legal status of persons who were granted refugee status ("refugees") was based on the Refugees Act. Refugees were guaranteed the same status as citizens of the Czech Republic, except that they did not have the right to vote, were not subject to military service, and could acquire real estate and perform paid work only under conditions provided by special regulations for foreigners. However, like foreigners with permanent residence, under the Employment Act they had equal rights with citizens of the Czech Republic in terms of employment opportunity. They did not need employment permits.

118. Refugees were also considered foreigners with permanent residence for purposes of health insurance and social security, as well as for purposes of acquiring and losing citizenship of the Czech Republic under the Act on Acquiring and Losing Citizenship.[66] Persons with refugee status, unlike other foreigners, did not have to submit documentation about losing their previous citizenship, and they could also be granted an exception from the requirement of five years' residence before filing an application.

119. Until 31 December 1999, the Refugees Act also governed the status of applicants for refugee status. In the report period, applicants for refugee status were required to remain in an assigned refugee camp during the asylum proceedings. An exception could be granted only by the management of the refugee camp, with the consent of the deciding administrative body. Applicants were entitled to housing, free meals and pocket money, and were provided free basic health care. If applicants were granted an exception and they were housed privately, the person who housed them also had to commit to providing them material security. In the report period, under section 7 of the regulation, an applicant was entitled to free provision of an interpreter for the asylum proceedings and was also exempt from all expenses or fees connected with the proceedings.

120. A new asylum law was approved in December 1999. The new Asylum Act,[67] which went into effect on 1 January 2000, is in compliance with valid international regulations on refugees and protection of human rights.

The status of Slovak citizens - former citizens of the CSFR

121. From 1993 to 1999 there was a special category of foreigners, former citizens of the CSFR who became citizens of the Slovak Republic as of 1 January 1993, although they had permanent residence or lived permanently in the Czech Republic. The Act on Acquiring and Losing Citizenship originally addressed acquisition of citizenship of the successor State - the Czech Republic - without regard for the will of the individuals who had been citizens of the CSFR and had permanent residence in the Czech Republic.[68]

122. Many of these former citizens of the CSFR could not, for various reasons, meet the deadline for electing citizenship of the Czech Republic, which was 30 June 1994 only under conditions provided by section 18 of the Act. Under conditions provided by section 7, paragraph 1 (c), of the Act, such election could be made only by someone who had not been sentenced with legal effect during the previous five years for an intentional crime. The same conditions (except the length of required residence in the Czech Republic, which was extended, after the end of the option period, from two to five years) were also set for granting citizenship on the basis of an application. The process of meeting the conditions for an application for citizenship was itself very demanding, financially and administratively. For many applicants with lower education, particularly for many Roma, it was a serious obstacle.

123. As a result of criticism of the cited Act - both international and from non-governmental organizations monitoring human rights in the Czech Republic - the Act was progressively amended.[69] The problem was not completely overcome until the amendment to the Act on Acquiring and Losing Citizenship, which went into effect on 2 September 1999.[70] This

amendment considerably simplifies the procedure for acquiring citizenship for certain citizens of the Slovak Republic. Under section 18 of the Act, a natural person who was a citizen of the CSFR as of 31 December 1992 and who had a registered or actual residence in the Czech Republic, and which was still in effect, could acquire citizenship of the Czech Republic by proclamation. Such a person does not have to submit a document renouncing previous citizenship, and can therefore have dual citizenship (Czech and Slovak). This person also does not have to submit an extract from the criminal register. Such person acquires citizenship of the Czech Republic as of the day a certificate of citizenship is issued.

124. The amendment of the cited Act also confirms the citizenship of those Czech citizens who, during the period provided by the Slovak Citizenship Act[71] elected the citizenship of the Slovak Republic. The Act thus confirms the previous position of the Constitutional Court, that a person who was a Czech citizen as of 1 January 1993 and chose Slovak citizenship after the division of the State did not lose Czech citizenship by making this election. Because the Government of Slovakia expressed a willingness to renew Slovak citizenship under the Slovak Act for those former Slovak citizens who gave up their citizenship at the time of the break-up of the federation, in connection with acquiring Czech citizenship, the opportunity for dual Slovak and Czech citizenship has also opened up for roughly 300,000 Czech citizens living permanently in the Czech Republic who were Slovak citizens (often only formally) at the time of the CSFR. These citizens, if they are granted citizenship of the Slovak Republic, will not lose citizenship of the Czech Republic. Similarly, Czech citizens who live in Slovakia (i.e. 4,000-5,000 people) will not lose citizenship of the Czech Republic if they are granted Slovak citizenship. A minor amendment - the ability to waive submission of a document attesting release from their original citizenship for those persons who have lived in the Czech Republic for more than 20 years - applies particularly to Polish and Bulgarian citizens.

Article 3

125. The principle of equality of men and women is contained in the Constitution of the Czech Republic and the Charter of Fundamental rights and freedoms. Article 3, paragraph 1, of the Charter states that 'Everyone is guaranteed the enjoyment of his/her fundamental rights and freedoms without regard to gender." This principle is also contained in provisions of the Civil Code[23] and the Civil Procedure Code,[20] the Criminal Code[17] and the Criminal Procedure Code,[19] the Administrative Procedure Code,[23] the Labour Code and the Employment Act,[72] the State Social Care Support Act,[73] the Act on the Family[74] and others.

126. The Charter and other laws protect the individual rights of men and women and formally ensure that the rights guaranteed by the Covenant can be exercised equally by both sexes. Therefore, most legal regulations formulate rights and obligations neutrally in terms of gender . Under article 29 of the Charter, however: "Women, juveniles, and persons with health problems have the right to increased protection of their health at work and to special work conditions."

127. Individual rights protected by the Covenant include:

(a) The right to work, education and training for work (see article 6 of the Covenant);

(b) The right to just and favourable working conditions, work safety, promotion in employment and the right to rest (see article 7 of the Covenant);

(c) The right to form a trade union (see article 8 of the Covenant);

(d) The right to social security (see article 9 of the Covenant);

(e) The right to an adequate standard of living for a citizen and his/her family (see article 11 of the Covenant);

(f) The right to the highest attainable standard of physical and mental health (see article 12 of the Covenant);

(g) The right to education (see article 13 of the Covenant).

128. A brief summary of individual rights and their provision with regard to gender follows (more detailed information, including citations of laws, is contained in the text to the appropriate articles of the Covenant).

129. The right to work is formulated neutrally, and no one may be discriminated against on the basis of gender in access to it and in performance of work. The right to preparation and training for work is also neutrally formulated. Women are excluded from certain kinds of work for health reasons; these are, in particular, work underground and work which could endanger their role as mothers.

130. The number of women working have traditionally been high - over 90 per cent of women of productive age work or are seeking work. Women are roughly 45 per cent of the total labour force in the national economy. The number of women seeking employment through the Labour Offices exceeds 50 per cent.

131. The right to just and favourable working conditions and work safety is also formulated neutrally. In addition, the right to favourable working conditions also includes a requirement for special protection for women, particularly women who are pregnant or nursing and mothers of small children. This requirement justifies various women's entitlements to leave from work (e.g. maternity leave, additional maternity leave), as well as employers' obligation to treat women differently than men (e.g. during pregnancy, to transfer them to different work or send them on business trips only with their consent), or to refrain from certain acts towards them (e.g. not to dismiss them from employment during pregnancy). The present legal framework contains certain elements of inequality in the status of male and female employees which are unjustified in terms of the principle of equal treatment, e.g. entitlements based on care for small children, for which men are required to be single parents. It is also unjustified that the so-called additional maternity leave (or parental leave, until a child reaches the age of three) basically pertains to the child's mother, and only exceptionally to the father. Therefore, the amendment to the Labour Code introduces the principle of equal treatment of men and women into employment relationships so as to be in accordance with the law of the European Community.

132. Safety and protection of health at work of pregnant women and mothers is provided at a relatively high European level: institutions like maternity leave, transfer to different work, the ability to refuse night work, protection from dismissal during pregnancy and care for small children are functioning, ingrained and observed by employers. The right to promotion in employment and the right to rest are also formulated neutrally in terms of gender.

133. The right to form trade unions is formulated neutrally. More women than men are organized in unions.

134. The right to social security belongs equally to women and to men. Legal regulations do not contain any elements of inequality, except different age requirements for retirement (lower for women, depending on the number of children raised). Nonetheless, this difference too is gradually being evened out; the new Pension Insurance Act in 1995 reduced it by two years compared to the previous law.

135. The right to an adequate standard of living for a citizen and his/her family and the right to the highest attainable level of physical and mental health is also formulated neutrally. Conditions for providing welfare benefits (State welfare support, social care and unemployment benefits) are not differentiated by gender; conditions for health care are also not differentiated.

136. The right to education. Although it is consistently formulated neutrally, there are individual fields of education to which girls do not, in fact, have access, or in contrast, which serve primarily for the education of girls. The Committee on the Elimination of Discrimination against Women[75] criticized this fact in discussing the initial report on fulfilment of obligations arising from the Covenant on the Elimination of All Forms of Discrimination against Women. It also criticized the fact that the Government does not guide girls to choose technical fields of study. The justification for preventing girls from access to the relevant education activities is currently being examined, and changes are being prepared in an appendix to the Decree of the Ministry of Education, Youth and Sports on Secondary Schools,[76] where the problematic fields are named. The changes will be made so that the legislation will not be in conflict with EEC Council Directive No. 76/207/EEC. They also state that it is not to the detriment of member countries to exclude from the scope of equal treatment of men and women such work activities, including specialized preparation for them, for which the worker's gender is a decisive factor.

137. Women seeking a career in the armed forces have more difficult access to education. The practice of accepting girls to military schools and subsequently placing them in military professions is in conflict with article 10 of the Convention on the Elimination of All Forms of Discrimination against Women. Under articles 3 and 6 of the Covenant, the States parties undertake to adopt measures to ensure equal conditions for choice of employment and occupation, as well as access to studies for men and women in all kinds of expertise and training. Generally there are no professions in the Army of the Czech Republic which women could not perform, but certain jobs (e.g. that of a pilot) are less suitable for women due to their physical demands, and female applicants for studies at military schools are warned of this fact. Accepting girls into fields of study at military secondary schools and universities is guided by the army's needs to fill jobs, which the army guarantees to girls after they are accepted for study. The Ministry of Defence attempts to harmonize the needs and interests of the military organization

with the increasing interest of girls in non-traditional military professions. The Ministry of Defence began partial correction in the 1999/2000 school year, when quotas for accepting girls to military schools began to be eliminated.

138. Equality of men and women in marital and family matters is expressed in the Act on the Family. In 1998 an important amendment was passed.[77] For more on the Act on the Family see the text on article 10, paragraph 1, of the Covenant.

139. Promoting the right to equal status of men and women (equal treatment). Everyone is entitled to turn to the courts with a complaint about a violation of the principle of equality without regard to gender. The matter is handled in civil court proceedings in 1999. In the interest of making implementation of the right easier, the Government proposed shifting the burden of proof from the plaintiff to the defendant in an amendment to the Civil Procedure Code.[78] The draft section 133a of the amendment reads.[79] In labour matters, the court shall deem claimed facts about the party being directly or indirectly discriminated against on the basis of his/her gender proven, unless the contrary is shown in the proceedings.

140. Observance of the principle of equal treatment of men and women in employment is monitored by employment inspection bodies (Labour Offices and the Ministry of Labour and Social Affairs), which impose administrative fines on employers if they find violations. The mechanisms protecting an individual citizen from discrimination on the basis of gender should be considerably strengthened by the Czech Republic's accession to the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, which introduces the institution of individual reporting of violation of rights. The Protocol contains provisions permitting individual claims of violations of rights guaranteed by the Convention to be submitted to the Committee on the Elimination of Discrimination against Women. The Government approved the proposal for ratification of the Optional Protocol in November 1999[80] and submitted it to the Parliament for approval.

141. The Convention on the Elimination of All Forms of Discrimination against Women was signed in the name of the Czechoslovak Socialist Republic in Copenhagen on 17 July 1980 (further in this text to article 3 of the Covenant the "Convention"), entered into force for the Czechoslovak Socialist Republic on 18 March 1982[81] and became part of the legal order of the Czech Republic. In accordance with article 18, paragraph 1, of the Convention, the Czech Republic, in 1994, submitted to the Committee on the Elimination of Discrimination against Women[82] (the "Committee") an extensive initial report on the Convention for the years 1993-1994. The Committee's preparations for discussions of this report were only begun at the end of 1997. Therefore, in discussing the initial report before the Committee on 30 January 1998, the Czech Republic added information on developments in 1994 to 1997.

142. In 1999 the Czech Republic submitted to the Committee its second periodic report, which contains primarily a description of important changes which have occurred since preparation of the initial report, i.e. for the period from 1 January 1995 to 30 June 1999. With reference to the previous report, it sets forth legal and other measures adopted which document progress

achieved in eliminating discrimination against women, significant changes in the status and equal rights of women, procedures leading to removing the remaining obstacles to the inclusion of women in political, social, economic and cultural life and overcoming problems which were pointed out by the Committee after discussing the CR's initial report on fulfilment of the Convention.

143. The report also contains detailed references to official internal documents concerning the equality of men and women approved by the Government of the Czech Republic. They are:

(a) The Government's Priorities and Procedures in Promoting Equality between Men and Women[83] (the "Priorities"), prepared by the Ministry of Labour and Social Affairs and approved by the Government. By resolution, the Government charged individual ministers to accept and implement measures for the actual achievement of equal rights between men and women. The document is divided into separate areas of government priorities, which are classified by importance. To meet the aims stated in the text, the Government set forth specific measures (procedures), deadlines for their fulfilment, and the responsible parties. Each year the Government evaluates how these measures are being fulfilled. Depending on the results of the evaluation, the Government adds new measures or changes the original ones. Thus, this is an open document, whose content can be adapted to current needs. Its preparation, evaluation and updating are shared not only by ministries and lower levels of State administration directly responsible for the formal and actual state of equality between men and women, but also the interested public, particularly non-governmental organizations of women and social partners (i.e. trade unions and employers' organizations);

(b) A summary report on fulfilment of the Priorities.[84] The evaluation also included proposals for new formulations of original measures, proposals for adding to them, and a proposal to abolish a measure which had already been fulfilled.

144. In April 1999 the Czech Republic submitted to the United Nations General Assembly an evaluation of its fulfilment of the conclusions of the Beijing Conference. The report was prepared by the Ministry of Labour and Social Affairs.

145. The Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Czech Republic, of the other part, concluded on 4 October 1993, binds the Czech Republic to progressively adapt its existing and future legal regulations so that they will be harmonized with EU regulations. This also means introducing the principle of equal treatment of men and women into all areas of employment relationships and social security. The result is the Czech Republic's commitment to formally ensure legal conditions for exercising and actual implementation of the principle of equal pay for men and women and the principle of equal treatment of men and women, above all in employment, in access to professional education, in the exercise of independent trades and in social security.

146. The Government makes adoption of all its measures subject to the principle of equal opportunity for men and women, as it considers application of this principle an effective method

for achieving true equality. A prerequisite for applying this principle is raising awareness about the equality of men and women. Individual ministers are required "to include in administrative offices' employee education programmes education in human rights, with attention paid to applying the principle of equal opportunity for men and women" (see the Priorities).

147. Independently of the existence of this fundamental document, in May 1999 the Government adopted a new employment policy, called the National Employment Plan.[85] It includes measures aimed at creating equal opportunities for men and women in the labour market. Preparation of the plan verified in practice whether and how individual workplaces are prepared to give priority to the equal opportunity principle over other principles. Based on the experience acquired, and with regard to the results of this method, the Government charged its ministers to have their ministries, on an ongoing basis, make their planning, decision-making and evaluation processes, in all phases of their preparation and implementation, subject to the principle of equal opportunity for men and women. This is an express commitment by the Government to implement a mainstreaming policy.

148. In connection with this, an amendment to the Employment Act went into effect on 1 October 1999.[86] Amendments to other important laws concerning labour-law relationships were presented by the Minister of Labour and Social Affairs in November 1999. The amendments are expected to go into effect in July 2000. They are amendments to the Labour Code, the Act on Wages and Remuneration for Stand-by and Work Average Earnings[87] and the Act on Wages and Remuneration for Stand-by Work in Organisations Funded from the Budget and Certain Other Organisations and Bodies.[88] The draft amendments contain the following changes:

(a) Draft amendment to the Labour Code: sets the principle of equal treatment of all employees in employment (in access to professional education, in promotion to higher positions or other promotion in employment, in provision of working conditions, in pay); forbids discrimination on the basis of gender, marital or family status or family obligations in labour-law relationships, including a ban on indirect discrimination; forbids sexual harassment; forbids retaliatory action (punishment, disadvantaging) of employees who legally seek enforcement of their rights and entitlements arising from labour-law relationships (i.e. including an entitlement to equal treatment of men and women in employment); governs employees' claims in cases of violation of rights and obligations arising from equal treatment of men and women or undesirable behaviour in the workplace; introduces so-called parental leave (by transforming the existing "additional" maternity leave), and also introduces the principle of equal treatment of both sexes into other conditions appliable to employees caring for children; will introduce an employer's obligation to inform an employee about all legal regulations on protection against unequal treatment; charges employers to inform women who are pregnant, nursing or have recently given birth about safety and health protection in work;

(b) Draft amendment of the Act on Wages, Remuneration for Stand-by Work and Average Earnings and the amendment to the Act on Wages and Remuneration for Stand-by Work in Organisations Funded from the Budget and Certain Other Organisations and Bodies: will introduce a system of cataloguing jobs and their evaluation for employers who conduct a business; will formulate more precisely the principle of equal pay for equal work regardless of gender, i.e. "equal pay for equal work and for work of equal value".

149. Together with the cited laws, changes are also made (by indirect amendment, through the amendment to the Labour Code and other laws) to the Act on the Service Relationships of Officers of the CR Police,[89] the Act on the Security Information Service[90] and the Act on Professional Soldiers.[91] The principle of equal treatment of men and women is also introduced into individual kinds of service relationships, in the same extent as in the Labour Code (including equalizing the status of male and female officers caring for small children).

150. EEC Council Directive No. 76/207/EEC, on implementation of the principle of equal treatment of men and women in access to employment, professional preparation, in promotion in employment and working conditions, states in article 2, that "this decree shall be without prejudice to the right of Member States to exclude from its field of application those occupational activities and, where appropriate, the training leading thereto, for which, by reason of their nature or the context in which they are carried out, the sex of the worker constitutes a determining factor". The implementing decree of the Ministry of Health to the Labour Code also applies to this point.[92] The extensive provisions of sections 1 to 3 of this decree contain definitions of these kinds of work and workplaces.

151. The continuing differences in pay for women and men are thus a permanent focus of the attention of the Government and central State administration bodies. Therefore, in the Czech Republic, earnings by gender are tracked as one of the most important classification criteria in statistical sample surveys on employee wages. This research was last done for the years 1996 and 1997.

152. If we wish to speak about the wage disparity of women, it is necessary to have a general overview of the position of women in the labour market. The structure of women's jobs differs from that of men's jobs, and this factor is a strong influence on average earnings. Other distinguishing factors are the branches of economic activity and the type of business (ownership sector), employee qualification requirements (education, pay scale), and age, in relation to the working career of men and women. Average wages are also influenced by many precise factors - particularly the employees' work hours and job description (the work performed). In view of this, the difference found in average wages of men and women cannot be said to be a clear indication of discrimination by gender.

Average gross monthly wage of employees

Year	Employees, total	Men	Women	Correspondence rate[a]
1996	9 610	10 874	8 026	73.8
1997	11 017	12 632	9 275	73.4

[a] The correspondence rate is expressed by the ratio of women's wages to men's wages in percentage terms.

153. An analysis prepared in connection with researching employee wages in all sectors of the national economy,[93] reached the following conclusions:

(a) Work hours strongly affect the correspondence rate of average wages; in 1997 only 2.7 per cent of men worked less than full time, but 8.5 per cent of women did; men also work a higher number of overtime hours;

(b) Women generally have a higher education level than men, and predominate primarily in categories requiring completed secondary education. The two highest levels - post-secondary education and scientific training - have more men;

(c) Women predominate in, on the one hand, non-manual jobs, except management and supervisory employees, and among unqualified labourers on the other hand; in contrast, men predominate in qualified labourer professions. There are more men than women in management positions (56 per cent);

(d) In classification by tariff grades, or pay classes (which indicate the employee's qualifications) women predominate in the lower grades, men in the higher grades. This corresponds to the foregoing types of classifications. Men predominate increasingly in the highest three grades; the highest grade has only 12 per cent women;

(e) Women's working careers are different in timing than men's careers (interrupted by maternity leave, sometimes repeatedly). Generally, an employee's average wage is highest at the end of the working career; in view of their earlier retirement, women reach their maximum at the age of 55-59 (wage growth from the beginning of the career of under 33 per cent), men after the age of 60 (growth of 39 per cent);

(f) The correspondence rate differs markedly between individual branches of the national economy. It is lower in trade, motor vehicle repair and consumer goods (62.3 per cent) than in health care (62.2 per cent), finance and insurance (66.6 per cent). The highest correspondence rate is in transportation, warehousing, the postal service and telecommunications, in other public, social and personal services (82 per cent) and in construction. Women are best paid in comparison to men in fields where they are fewest, with the exception of education (78.3 per cent of the average men's wage). However, women's employment is structured more advantageously than men's (women in finance exceed the average women's wage). Women in the same employment structure by sector as men would receive only 72.12 per cent of men's wages;

(g) Women's wage inequality differs by individual jobs: in some areas it is minimal (e.g. elementary school teachers), in other areas women receive considerably less (e.g. printers and typesetters - 58 per cent of men's wages with the same qualifications).

Ratio of average women's wages to average men's wages by education and age (in %)

		1997	1998
Education	Elementary	74.9	74.6
	Apprenticeship and secondary education without academic diploma	69.1	71.6
	Completed secondary with academic diploma	75.5	72.9
	Post-secondary	68.9	64.9
Age	Under 19	91.4	84.6
	20 - 24	85.0	82.6
	25 - 29	76.3	73.4
	30 - 34	70.5	67.1
	35 - 39	72.6	68.4
	40 - 44	73.0	69.4
	45 - 49	74.4	70.6
	50 - 54	76.8	74.1
	55 - 59	84.9	77.4
	60 and over	68.0	65.5

Source: Czech Statistical Office, research on employee wages.

154. To summarize the conclusions: women generally predominate in branches with a lower wage level. They have better primary qualifications for entry into the labour market. However, they have a disadvantageous structure in terms of specific positions in the workplace. Feminized branches generally have lower wages.

Article 4

155. The Charter of Fundamental Rights and Freedoms states in article 2, paragraph 2, that "State authority may be asserted only in cases and within the bounds provided for by law and only in the manner prescribed by law." Under paragraph 3, "everyone may do that which is not prohibited by law, and nobody may be compelled to do that which is not imposed upon him/her by law"..

156. Article 4 of the Charter states:

> "(1) Duties may be imposed upon persons only on the basis of and within the bounds of law, and only while respecting the fundamental rights and freedoms of the individual.
>
> "(2) Limitations may be placed upon the fundamental rights and basic freedoms only by law and under the conditions prescribed in the Charter of Fundamental Rights and Freedoms.

> "(3) Any statutory limitation upon the fundamental rights and freedoms must apply in the same way to all cases which meet the specified conditions.
>
> "(4) In employing the provisions concerning limitations upon the fundamental rights and freedoms, the essence and significance of these rights and freedoms must be preserved. Such limitations are not to be misused for purposes other than those for which they were laid down."

157. Article 9 of the Constitution states, in addition, that "any changes in the essential requirements for a democratic State governed by the rule of law are impermissible". It further states that "legal norms may not be interpreted so as to authorize anyone to do away with or jeopardize the democratic foundations of the State".

158. The Charter also, in article 9, paragraph 2 (c) and (d), on forced labour, permits, on the basis of law, services required in the event of natural disasters, accidents or other danger which threatens life, health or considerable property, as well as actions required by law for protection of the life, health or rights of others.

159. The Charter, in article 11, paragraph 4, permits expropriation or some other mandatory limitation upon property rights, in the public interest, on the basis of law, and for compensation. Article 12, paragraph 3, states, that other encroachments upon the inviolability of a dwelling (except house searches for purposes of criminal proceedings) may be permitted by law only if such is necessary in a democratic society for the protection of the life or health of individuals, for the protection of the rights and freedoms of others, or in order to avert a serious threat to public security and order.

160. Article 14, paragraph 3, of the Charter similarly permits restriction of freedom of movement and residence by law, if it is unavoidable for the security of the State, maintaining public order, etc. A similar restriction of fundamental rights and freedoms is contained in article 16, paragraph 4, which concerns religious freedoms.

161. The Constitutional Act on the Security of the Czech Republic[94] provides for restriction of certain rights and freedoms (and imposition of certain obligations) in a state of emergency, a state of endangerment or a state of war. The Government (in case of danger of delay, the prime minister) may declare a state of emergency for no longer than 30 days in the event of a natural disaster or ecological or industrial breakdown or accident which considerably endangers life, health, property or the internal order and security. The Government without delay informs the Chamber of Deputies about the declaration of a state of emergency, and the latter can repeal or extend the declaration.

162. A state of national endangerment occurs when the State's sovereignty or territorial integrity is endangered, but also if its democratic foundations are endangered. Declaring a state of national endangerment is decided by the Chamber of Deputies and the Senate.[95] If the mandate of deputies, senators, the President of the Republic or a representative body is to end during a state of national endangerment or a state of war, it may be extended by six months.

163. The cited Constitutional Act was initially criticized by the public for being an overly extensive restriction of fundamental rights and freedoms in the cited situations, because, at the time it was passed, the Act had not been made specific in laws which would specify in detail the extent and manner of restricting certain rights and imposing specific obligations on legal entities and natural persons. These laws were passed and went into effect as of 1 December 1999.

164. The Charter simultaneously, under article 44, permits restricting by law certain rights of members of the armed forces: the right of assembly, the right to petition and the right to form trade unions, if related to the performance of their duties. It also permits statutory restriction of certain other rights, in cases of measures which are necessary in a democratic society for national security. On the basis of the foregoing, the Act on Professional Soldiers[96] contains restrictions on the right of assembly (sect. 44), right of association (sect. 45) and the right to freely express religion or faith (sect. 46).

165. Under the new Act on Ensuring Defence of the Czech Republic,[97] which went into effect on 1 December 1999, it is possible, in accordance with article 4 of the Covenant and based on articles 4, 19, 20 and 35 of the Charter, to restrict certain fundamental rights and freedoms in a state of national endangerment and in a state of war, when the priority is primarily protecting the integrity of the State and thereby also the integrity of every citizen.

166. This Act provides, in section 53, not only a list of rights and freedoms which can be restricted in a state of national endangerment and a state of war in order to achieve effective defence of the State, but also sets forth the basic content of their restriction. In view of the fact that the extent of restriction of fundamental rights and freedoms cannot be predicted, it is proposed that the Government make the decision by a decree in accordance with the Act.

Article 5

167. Rules for interpretation of Covenant provisions are fully observed in the Czech Republic. No rights guaranteed by the Czech legal order are restricted on the basis that the Covenant does not expressly protect such rights or protects them in a narrower scope than the relevant law. This applies particularly to rights guaranteed by the Charter, which guarantees some rights in a wider scope than the Covenant.

168. The prohibition on suppressing any rights arising from the Covenant is related to fulfilment of obligations contained in article 5 of the International Covenant on Civil and Political Rights[98] and article 17 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.[99] These articles forbid individuals, groups, and the public powers from restricting or suppressing any of the recognized rights. In the Czech legal order this principle is also contained in section 3 of the Civil Code:[100]

> "The exercise of rights and performance of duties (obligations) arising from civil-law relationship may not, without legal grounds, interfere with the rights and justified interests of others, and may not be inconsistent with the principles of proper morality. Individual and legal entities, State authorities (bodies) shall see to it that rights arising from civil-law relationships are not jeopardized or violated, and that any possible dispute between the parties be settled primarily by their agreement. Section 7 of the

Civil Code states that an individual (natural person) acquires the capacity to have rights and duties (obligations) at birth. This capacity is also possessed by a conceived baby, if it is born alive."

169. The right to judicial and other legal protection is governed generally by article 36 of the Charter:

> "Everyone may assert, through the legally prescribed procedure, his/her rights before an independent and impartial court and, in specified cases, before another body. Unless a law provides otherwise, a person who claims that his/her rights were curtailed by a decision of a public administrative authority may turn to a court for review of the legality of that decision. However, judicial review of decisions affecting the fundamental rights and freedoms listed in this Charter may not be removed from the jurisdiction of courts."

Paragraph 4 of the cited article also states that conditions therefor and detailed provisions shall be set by law.

170. No fundamental right or freedom may be excluded from judicial protection. Court proceedings are based on principles known as the concept of a "fair trial". The Constitution and the Charter define the principles of a fair trial as follows:

All parties have equal rights before the court;

Proceedings before courts are oral and public, with exceptions provided by law;

The decisions are always announced publicly;

Everyone has the right to refuse to testify if he would thereby incriminate himself or a close person;

Everyone has the right to assistance in proceedings before the courts, other State bodies, or public administrative bodies, from the beginning of the proceedings;

Anyone who declares that he does not understand the language in which proceedings are conducted has a right to an interpreter;

Everyone has the right to have his/her case reviewed publicly, without unnecessary delay and in his/her presence, and to be able to respond to all evidence presented;

In criminal law the principle nulla poena sine lege, a presumption of innocence and a prohibition on retroactivity apply;

In criminal proceedings the defendant has the right to be given time and opportunity to prepare a defence, to defend himself or be defended by a lawyer;

If the defendant does not choose a lawyer although he is required to have one by law, a lawyer is assigned to him free of charge;

The defendant has the right to refuse to testify, and may not be deprived of this right in any way.

171. There is no law in the legal order of the Czech Republic which is in conflict with article 5 of the Covenant. This, together with the fact that article 10 of the Constitution guarantees the direct applicability of international treaties and their precedence over statutes, makes it possible to directly apply article 5 of the Covenant. In labour-law relations the prohibition on misuse is directly stated in section 7, paragraph 2, of the Labour Code.[101]

> "No party is permitted to exercise rights or perform duties arising from labour-law relations to the detriment of the other party to the labour-law relations."

172. Judicial protection of individual rights is one of the basic procedures in the Czech legal order. Everyone may, through the prescribed procedures, seek enforcement of his/her rights before a court which is independent of the executive power and is unbiased. The law may also specify another procedure for reviewing the legality of public administrative decisions, but only a court has jurisdiction to review decisions concerning rights and freedoms guaranteed by the Charter. However, it is fundamentally important for legal protection for individuals to know what their rights guaranteed by the Covenant are, as well as for judicial and administrative bodies to be aware of obligations assumed by the Czech Republic as a State party to the Covenant. As was stated before, all constitutional acts, laws and generally binding legal regulations valid in the Czech Republic, i.e. including texts of ratified international treaties, are promulgated in the Collection of Laws, and important legal norms are published in annotated editions with references to case law.

173. Article 36, paragraph 3, of the Charter reads: "Everybody is entitled to compensation for damage caused him by an unlawful decision of a court, other State bodies, or public administrative authorities, or as the result of an incorrect official procedure."

174. State liability for damages caused by a decision or incorrect procedure by its bodies is presently governed by the Act on Liability for Damages Caused in the Exercise of Public Power or by Incorrect Administrative Procedure.[102] This Act states that the State is liable for damages caused by a decision issued in civil court proceedings, in administrative proceedings or in criminal proceedings, or by an incorrect administrative procedure (section 5 of the cited Act). Territorial self-governing units are liable under conditions set forth by this Act for damages caused in exercising the powers entrusted to their independent jurisdiction by law.

175. Definition of the State as a subject liable for damages in the cited Act leads to the need to identify ministries or other central offices which appear to be liable in the name of the State. These offices do not represent the State but act on its behalf under law, not only if an injured party exercises before them a claim for compensation for damages under section 14 of the Act, but also in any legal proceedings arising from the Act in matters of compensation for damages.

176. The Act distinguishes liability arising "from decisions on detention, punishment or a protective measure"; it also distinguishes "liability arising from unlawful decisions", which can be any other decisions in an individual matter, issued on the basis of procedural regulations, and "liability for damages caused by incorrect administrative procedure". This distinction was chosen because a decision on detention which caused damage need not be unlawful in every case, and also because the two other kinds of decisions in criminal matters also have their unique features.

177. Persons entitled to compensation for damages are defined in the Act on State Liability in various ways, depending on what legal fact resulted in the damage being incurred. In the case of damages caused by a decision on detention and punishment, only the person on whom the detention or punishment was imposed is entitled to compensation. In a case of damage caused by an unlawful decision, parties to the proceedings in which the unlawful decision which caused the damage was issued are entitled to compensation.[103] The Act expressly states that a person who was not treated like a party to the proceedings, although he should have been, also has a right to compensation for damages from an unlawful decision. In this context, a party to proceedings must be understood to mean a person who is identified as a party by the applicable procedural regulations, not someone who was recognized as a party in specific proceedings.

178. In making a claim for compensation for damages caused by an unlawful decision, the first condition is that the unlawful decision must have gone into legal effect. However, the law also considers cases where a decision is executable without regard to legal effectiveness. A reversal or a change of a legally effective decision on the ground that it is unlawful is required; this is done by the body authorized to do so under the relevant procedural regulations (generally based on proceedings on extraordinary appeals or based on proceedings before the Constitutional Court). The determination of the unlawfulness of a decision is thus not undertaken until proceedings for compensation for damages are instituted. A claim for compensation for damages caused by a decision which is executable regardless of its legal effectiveness may also be made when the decision was reversed or changed based on an ordinary appeal, because such a decision may cause damages even before it goes into legal effect.

179. The provision which permits making a claim for compensation for damages can be used only against a decision which has not gone into legal effect; this is intended to limit the number of cases of damage which arise. These are appeals which are fully available to the parties to the proceedings, and therefore failure to use them can weigh against these parties.[104] These appeals thus do not include a complaint of violation of the law in criminal proceedings.

180. Compensation for damages also cannot be granted in connection with decisions on detention, punishment or protective measures if it was not possible to continue the proceedings because the injured party (under the Criminal Procedure Code) withdrew his/her consent to starting or continuing criminal prosecution (section 163a of the Criminal Procedure Code). It also cannot be granted if the criminal prosecution was stopped conditionally in connection with a decision about settlement, or in a case where the criminal prosecution was stopped because the punishment which the proceedings could impose would be completely meaningless in the context of a punishment which had already been imposed on the defendant for another crime or

which he was expected to receive,[105] or because a decision about the defendant's action had already been taken by another body, disciplinarily, punitively, or by a foreign court or administrative office.

181. In addition to an unlawful decision, damage can also be caused by an incorrect administrative procedure. This is not more closely defined in the current laws; only one of the possible varieties of incorrect decision is given as an example. Defining an incorrect administrative procedure is very difficult; every such definition carries the danger of being incomplete. This procedure may consist of both action or inaction by the relevant entities exercising public power. It can consist of both violation of the law and violation of lower legal regulations, i.e. internal directives of individual bodies.

182. It is clear from the Act that "incorrect administrative procedure" also includes violation of an obligation to take an action or issue a decision by a deadline set by law. If a body which is required by law to decide a matter does not observe the deadlines set by law for making the decision, or the deadline for delivering a written copy of the decision, or if it violates general provisions of procedural regulations which require it to handle, on time and without undue delay, matters which are the subject of the proceedings, this can constitute an incorrect administrative procedure.

183. The State may shift the effects of compensation for damages to legal entities or their employees who directly injure an individual by an unlawful decision or other incorrect administrative procedure through a so-called "regressive" payment. Regressive payment can be required only if compensation for damages was paid to the injured party. The legal regulation of regressive payment is constructed hierarchically: basically, the person who paid the compensation for damages (the State) can demand a regressive payment (with certain exceptions) from those entities which caused the damage, and those entities can demand payment from their employees.

184. The State is liable for damages caused in the exercise of State power. State power must be understood, in accordance with article 2, paragraph 1, of the Constitution, as legislative, executive and judicial power. The Act on Liability for Damages is designed so that only liability for damages caused by the executive and judicial power under conditions specified in the Act can be applied under it. The State is liable, under conditions provided by the Act, for damages caused by facts expressly stated in the Act, i.e. a decision or an incorrect administrative procedure, and the Act does not provide any grounds for exemption.[106] However, under the Act, the State is not liable for damages caused by legislative acts. Damages caused by the legislative power and damages caused by so-called secondary legal regulations cannot be claimed under the Act.

185. Article 37, paragraph 2, of the Charter also states: "In proceedings before courts, other State bodies, or public administrative authorities, everyone shall have the right to assistance of counsel from the very beginning of such proceedings." In the narrower sense, legal assistance can be understood as qualified assistance provided by an attorney. Defendants are ensured this right under the Criminal Procedure Code. It may be a problem in criminal proceedings to

provide qualified legal assistance for other parties to the proceedings, e.g. the victims, who can obtain legal assistance for exercising their rights either through a legal representative or a representative on the basis of a power of attorney, but are not entitled to free legal assistance.

186. One of the inadequacies which are to be corrected by future legal regulations is the fact that, under the Civil Procedure Code, a court is not authorized to review an administrative body's failure to act or undue delays in decision-making. In practice, this complicates the enforceability of the right to have a matter reviewed without undue delay.

Article 6

Paragraph 1

187. The right to work and free choice of occupation in the legal order of the CR is generally guaranteed by article 26 of the Charter of Fundamental Rights and Freedoms:

> "(1) Everybody has the right to the free choice of his/her profession and to the training for that profession, as well as to engage in commercial and economic activity.
>
> "(2) Conditions and limitations may be set by law upon the right to engage in certain professions or activities.
>
> "(3) Everybody has the right to acquire the means of his/her livelihood by work. The state shall provide an adequate level of material security to those citizens who are unable, through no fault of their own, to exercise this right; conditions shall be provided for by law.
>
> "(4) Different statutory rules may apply to aliens."

188. The Czech Republic is also a party to international conventions guaranteeing everyone equal access to employment, namely the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women and conventions of the International Labour Organization.[107]

189. A further, more detailed definition is contained in the Employment Act.[108] The right to employment under section 1, paragraph 3, of this Act "means the right to employment shall be understood as the right of every citizen willing and able to work and genuinely seeking a job to: assistance in finding suitable employment; retraining which is essential for finding employment; financial support prior to entering employment and if employment is lost."

190. The employment arranged must be suitable for the person under section 1, paragraph 4, of the Employment Act, i.e. it must correspond to his/her state of health, and must also take into account the person's age, qualifications and abilities, the length of the previous period of employment and housing opportunities.

191. Arranging placement in suitable employment is primarily the task of labour offices[109] - public offices that arrange employment, which are established, managed and financed from the budget of the Ministry of Labour and Social Affairs through the employment services administration. The addresses and areas of jurisdiction of labour offices are the same as the addresses and areas of jurisdiction of district offices. Labour offices provide free services to persons seeking employment. In addition to them, as of 31 October 1999 there were in the Czech Republic 170 private employment agencies, whose activities are permitted by the Ministry of Labour and Social Affairs and which provide employment services for a fee, the amount of which is regulated by the Ministry of Labour and Social Affairs under the Employment Act and the Act on Jurisdiction of Bodies of the Czech Republic in the Employment Sector. Wage withholding in connection with arranging employment is forbidden.

192. The guarantees of the right to free choice of employment include, before beginning employment, the right to specialized consulting services on employment opportunities, which are provided by schools, usually in cooperation with State bodies in the employment sector, labour offices, through individual and group consultations, lectures, discussion groups, etc.

193. Labour offices include information and consulting centres. These centres provide free information to help with a choice of occupation for graduates of vocational schools, secondary schools and post-secondary schools, but also to students of elementary and special schools and their parents; information on the labour market situation and opportunities to find work in various fields; information on requalification opportunities; a current list of new jobs in the district and the entire country; and other services.

194. The free choice of occupation is also provided by section 27 of the Labour Code:[110] "an employment relationship is based on a contract between an employer and an employee", i.e. by agreement in an expression of will by both sides. This must be made freely, seriously, definitely and understandably. Likewise, other labour-law relationships, i.e. relationships established by appointment or election, cannot be created without the person's consent.

195. Applicants for study at secondary schools and applicants for training for manual labour occupations in secondary specialized vocational schools are accepted on the basis of voluntary applications and with consideration of their abilities, knowledge - usually verified in admissions proceedings - interests and state of health.

196. The possibility of forced work, in the form of transferring an employee without his/her consent to another kind of work, for a period of 30 workdays in a calendar year, was removed by the amendment to the Labour Code[111] in 1992. The Labour Code provision in question (sect. 37, para. 4c) was deleted from the Labour Code because it was in conflict with article 9 of the Charter as well as Convention No. 29 of the International Labour Organization[112] and the European Convention for the Protection of Human Rights and Fundamental Freedoms. Under current legal regulations, transfer of an employee to different work can be done only on the basis of reasons stated in the Code (section 37 of the Labour Code). The employer and the employee should agree on the change in the agreed content of the employment agreement (section 36, paragraph 1, of the Labour Code[113]). However, in exceptional cases provided in the Code, the

employer may transfer an employee without his/her consent (during breakdowns due to interruption of work caused by unfavourable weather conditions, when averting natural disasters, during temporary absence of requirements provided by legal regulations for the performance of the work, etc.).

197. Article 9 of the Charter provides exceptions which allow requiring the performance of work or services. Paragraph 1 of article 9 reads: "No one may be subjected to forced labour or service." However, the following paragraphs state:

> "(2) The provision of paragraph 1 shall not apply to:
>
> "(a) labour imposed in accordance with law upon persons serving a prison sentence or upon persons serving other penalties that take the place of the penalty of imprisonment,
>
> "(b) military service or some other service provided for by law in place of compulsory military service,
>
> "(c) service required on the basis of law in the event of natural disasters, accidents, or other danger threatening human life, health, or property of significant value,
>
> "(d) conduct imposed by law for the protection of life, health, or the rights of others."

198. Similar regulations are also contained in several provisions of the Labour Code. In particular, section 90, paragraph 2d and 2e of that law, governing shortening uninterrupted rest between shifts; section 95 governing standby work, sections 96 to 98 governing overtime work; section 170 and section 171 governing preventing damage; and section 175 governing employee liability for failure to fulfil obligations for averting damage. Protection from forced labour is also generally governed by the Criminal Code[114] in section 235 on extortion, section 237 on oppression, and in provisions on restriction or deprivation of personal freedom (sect. 231 and sect. 232).

199. Protection of citizens upon termination of employment includes the requirement of proper reasons for one-sided termination of the employment relationship by the employer (a complete list of reasons for notice of dismissal and immediate termination of employment is provided in sections 46 to 53 of the Labour Code), the requirement to discuss such termination of employment with a union body in the company and the obligation to offer the employee another suitable position before giving notice of dismissal (except in cases of dismissal due to violation of work discipline or for reasons for which an employment relationship may be terminated immediately). A special guarantee is the prohibition of dismissal in certain life situations and special protection of the employment relationships of pregnant women, mothers, and single fathers of small children, disabled people, etc. (section 48 of the Labour Code). The notice period is two months (three months if the employer gives notice of dismissal due to organizational reasons). Under the Civil Procedure Code, an employee can claim invalidity of

termination of the employment relationship before a court no later than three months from the day when the employment relationship was to terminate. The employee can appeal a decision by the court of the first level to a higher court under section 201 of the Civil Procedure Code.[115]

200. Special regulations govern the labour law relationships of customs officials,[116] members of the armed forces,[117] the Security Information Service,[118] the Police of the Czech Republic[119] and members of the fire safety service.[120] These regulations independently govern the creation, content and termination of the service relationship, conditions for acceptance, trial period, conditions under which a person in the service relationship can be assigned to different work or transferred without his/her consent, work scheduling, obligations of members, but also special care for them (health, social educational) and other rules by which the service relationship differs from labour law relationships governed by the Labour Code.

201. New laws governing the service relationship and other labour-law relationships of members of the armed forces came into effect on 1 December 1999. They are the Act on Professional Soldiers,[121] the Act on Ensuring Defence[122] and the Act on the Armed Forces.[123] In the first quarter of 2000 the Government will discuss a new draft Act on the Police of the Czech Republic, which would go into effect on 1 January 2001.

202. The new Act on Professional Soldiers, in section 47, paragraph 1, states one of the statutory restrictions on conduct of the occupation: "A soldier may, in exceptional cases, perform employment only with the written consent of the service body, if that activity does not affect the performance of his/her service or another important interest of the armed forces."

203. Basic and free preparation for employment in elementary and secondary school is guaranteed to all citizens of the CR and foreigners with permanent residence in the Czech Republic in the Schools Act,[124] as required by article13, paragraph 1, of the Covenant. All preparation in these schools must take place, under section 39 of the Schools Act, based on educational materials, which are prepared in accordance with the needs of the relevant occupations, and which are also updated based on the needs of the labour market. More detailed information is in the text to article 13 of the Covenant.

204. Sections 141 to 144 of the Labour Code impose on employers an obligation to look after the qualification of employees and its improvement. These provisions give rise to rights and obligations for both the employer and the employee:

(a) Section 141a of the Labour Code gives an employee the obligation to "systematically broaden the qualifications he needs for performing the work agreed upon in his/her employment contract". The employer is entitled "to require from his/her employee that he participate in training to broaden his/her qualifications. The employer shall ensure that an employee who enters an employment relationship without qualifications (skills) obtains them through introduction training course or initial training" (section 142, paragraph 1, of the Labour Code), after which the employer shall issue the employee a completion certificate. The employer is also required, under section 142, paragraph 2, of the Labour Code, to arrange for an employee to undertake a training course or initial training if such employee transfers to a new workplace, a new type of work or a new method of work, especially when this is necessary due to changes in work organization or other rationalizing measures. Some kinds of improving qualifications are required, others can be done depending on the employer's needs and financial abilities;

(b) Under section 142b of the Labour Code, an employer may provide an employee relief from work and financial (material) security (under section 126 of the Labour Code), if the expected increase in qualifications is in accordance with the employer's needs.

205. Additional education through requalification is done under the Employment Act and the Decree of the Ministry of Labour and Social Affairs on Conditions for Arranging Requalification of Job Seekers and Employees.[125] In requalification of job seekers, under section 1 of that decree, in addition to existing qualifications, consideration is given to the applicants' personal qualities , abilities and health for the performance of the work for which they are to requalify. Requalification is conducted using suitable forms of theoretical and practical preparation, particularly in the trade or field of study, with possible preparation for individual specialization courses and short-term forms of secondary school and post-secondary studies.

206. The labour offices arrange requalification in cases where demand in the labour market does not match supply and requalification of the labour force will permit new or additional placement in suitable employment.

207. Under the above-mentioned decree of the Ministry of Labour and Social Affairs, requalification of job seekers is arranged by educational institutions: vocational schools, secondary vocational schools, academic secondary schools, secondary occupational schools and special schools established by the State, but also employers' educational institutions, private institutions and other natural persons and legal entities. A facility's capacity to perform requalification is verified and approved by the Ministry of Education, Youth and Sports. Educational institutions provide requalification based on an agreement with a labour office or an employer. Teaching is conducted according to educational materials approved by the Ministry of Education, Youth and Sports.

208. A labour office concludes a written agreement with a job seeker who needs requalification for placement in employment and who expresses interest in it. The agreement sets forth conditions under which the requalification is to take place.

209. Under section 4 of the above-mentioned decree, a labour office arranges the necessary safety aids and equipment free of charge for a job seeker whom it sends for requalification; it can also reimburse him for expenses for school supplies (up to CK 1,000) travel expenses, and insurance in case of injury.

210. No legal regulations in the Czech Republic contain exceptions or restrictions concerning race, gender, nationality, social origin, etc., which would violate or weaken the recognition, enjoyment or exercise of the right to equal opportunity, possibilities and treatment in access to employment and preparation for it.

211. The methods and conditions for providing financial security before entering employment and in case of loss of employment are governed by sections 12 to 18 of the Employment Act. Financial security is provided to job applicants who meet the condition of having been employed for a total of at least 12 months in the last three years before filing an application for arrangement of employment. Under section 13, paragraph 2, of the Employment Act the following are included as periods of employment: time in school (preparation for an occupation or for employment), basic military service or civil service, personal care for a child up to 3-years old or a child up to 18 if the child is severely handicapped and therefore requires extraordinary care, a period when personally caring for a related person who is largely or completely incapacitated, and a period when drawing a full invalid pension.

212. If it is not possible to place an employee who is to be made redundant elsewhere in the company, the employer is required, in cooperation with the labour offices, to help the employee find new suitable employment. If the employee cannot find suitable employment, despite the help of the former employer and the labour office, he is entitled, under section 17 of the Employment Act, to unemployment material security benefits in the amount of 50 per cent of his/her previous earnings for a period of three months and thereafter in the amount of 40 per cent for a period of an additional three months. A job seeker who goes through requalification is provided, during the requalification period, material security in the amount of 60 per cent of his/her average net monthly earnings in his/her last job. If he does not begin "suitable employment" even after that time, the labour office continues to list him as a job seeker and offer him available jobs, but the person is materially secured in the social security system until he finds a position in the labour market.

213. The State employment policy includes regulating employment of the foreign labour force. Conditions for employing foreigners in the Czech Republic are governed by the Employment Act, under which foreigners or persons without citizenship can be employed in the Czech Republic on the condition that they have been issued an employment permit by the labour office (under the Employment Act and Jurisdiction of CR Authorities in the Employment Sector and a residence permit by the Ministry of the Interior (under the Act on Residence of Foreigners in the Czech Republic[126]). An employment permit is also required if the foreigner is to perform work in the Czech Republic in an employment relationship with a foreign employer who sent him to perform the work based on a business or other agreement concluded with a domestic legal entity or natural person.

214. Labour offices issue a permit to hire a foreigner under section 19 of the Employment Act if an available job cannot be filled otherwise, due to the required qualifications or a temporary lack of available labour.

215. The amendment to the Employment Act[127] in effect as of 1 October 1999 made the conditions for employing foreigners more precise and also tightened them. An important change is the restriction of the time for which a work permit can be issued to one year, with the possibility of issuing the permit repeatedly. After a foreigner has been employed in the country for three years, a new permit can be issued only after 12 months have elapsed, unless an international treaty by which the Czech Republic is bound provides otherwise. This restriction does not apply to foreigners working in border areas who return home at least once a week, or

seasonal employees if they do not work in the country for more than six months in a year and at least six months elapse between individual jobs. It also does not apply to foreigners who conduct consistent educational activity in the Czech Republic as pedagogues.

216. In some cases employers may employ foreigners even without a work permit. This applies primarily to foreigners and persons without citizenship who have been issued a permanent residence permit, foreigners who have been granted refugee status or have applied for it, and applicants for asylum.[128] Permits are also not necessary for family members of members of a diplomatic mission, a consular office, or employees of an international governmental organization with its offices in the country, if reciprocity is guaranteed by an international treaty concluded in the name of the Government.

217. After the division of the Czechoslovak Federation in 1993, the Governments of the successor States, the Czech Republic and the Slovak Republic, concluded a treaty on reciprocal employment of their citizens.[129] This treaty guarantees the principle of free movement of labour between the two States. An employer is only required to register its employees at the appropriate labour office.

218. If foreigners or persons without citizenship are employed in the State without a permit or registration at the labour office, they can be prosecuted under the Act on Offences,[130] and illegal employees under the Act on the Residence of Foreigners. In these cases the employers can be given a fine for violation of the Employment Act. Inspection is conducted by the labour offices, which also impose fines on employers for failure to observe the applicable legal regulation. Despite these measures, illegal employment is frequent, particularly in the construction industry.

219. Under article 26 of the Charter everybody has the right to the free choice of his/her occupation and to the training for that occupation, as well as to engage in commercial and economic activity. The conditions for private business are provided by the Trades Licensing Act[131] and the Commercial Code.[132] Eligibility for employment to this sector includes conducting a trade under the Trades Licensing Act, entry in a register under the Act on Private Conduct of Business by Citizens[133] (concerns agricultural production), having the position of a statutory body of a company, consistently performing an artistic or other creative work on the basis of authorship-law relationships (see the text to article 15 of the Covenant on protection of intellectual property), performing another remunerative activity based on an authorization under special regulations (the Act on Advocacy,[134] the Act on Auditors[135] etc.) and cooperating in the performance of an independent earning activity.

220. Discrimination in employment is forbidden by section 1, paragraphs 1 and 2, of the amendment to the Employment Act, which went into effect on 1 October 1999. It also prohibits discriminatory job offers which interfere with the principle of equal access to employment:

> "(1) The right to employment (work) cannot be denied to a citizen because of his/her race, colour, sex, sexual orientation, language, faith or religion, political or other conviction, membership or activity in political parties or political movements, trade union organizations or other associations, nationality, ethnic or social origin, property, family, state of health, age, marital and family status or obligations to his/her family, except

> where this is stipulated by law or cases where there is a factual ground consisting in the precondition, requirements and nature of the employment (work) which the citizen is to perform and which is necessary for performance of this employment.
>
> "(2) Participants in legal relationships created under this Act may not be offered employment (work) contrary to provisions of paragraph (1)"

An offer of employment means not only an offer made through the public media (advertising), but also an offer made in an applicant's interview with the employer, in a selection process, etc.

221. Proven discrimination in connection with a job offer can be prosecuted under sections 8 and 9 of the Employment Act and Jurisdiction of Authorities of the CR in the Employment Sector. Conviction can be punished by a fine of up to CK 250,000 and in repeated cases up to CK 1 million. Inspection is carried out and fines imposed by the employment inspection bodies: labour offices and the Ministry of Labour and Social Affairs. It is not yet possible to determine whether judicial protection was sought in cases of discrimination because the relevant items were not included in statistics until 1999.

222. Implementing the right to equal access in employment brings problems in practice. The problems concern not only men and women, but all high-risk population groups: young people without experience, women with small children, the handicapped, people of preretirement age, and people with low or no qualifications.

223. Member of the Romani minority have great problems with placement in the labour market. This minority has extremely high unemployment (government estimates are that 70 to 80 per cent of the Romani population of productive age are unemployed),[136] which leads to dependence on welfare benefits and other forms of social deprivation. In addition, most Romani job applicants registered at labour offices also belong to a group of people who are difficult to place in the labour market, characterized by cumulative handicaps.

224. The main cause for the high unemployment among Roma is the low level of education and qualification of most of them. Another cause - closely related to the first - is the demotivating system of welfare benefits in view of the pay level for unqualified manual work. Preventing employers from direct discrimination has not been successful - they sometimes refuse to employ Roma without any explanation, often justifying the failure to employ Roma on the grounds of their "inadaptability" to a standard working regime and bad experiences with some Roma. However, this kind of discrimination is difficult to prove. Projects aimed at increasing Romani employment are supported by the Ministry of Labour and Social Affairs through State requalification programmes,[137] and at the local level by the Ministry of Interior through the National Committee for Crime Prevention.[138]

225. In an attempt to increase the employment of the handicapped, the obligation of employers to employ a certain percentage of disabled employees was transferred from a mere government decree directly into the new Employment Act. Despite this, the statistical data indicate that the unemployment of the handicapped is increasing. In recent years the number of disabled citizens has climbed sharply, although the number of available jobs is still the same,

according to the labour offices. As of 31 December 1998, there were 48,951 disabled citizens in the Czech Republic, but there were only 1,242 available jobs (registered at the labour offices) for these citizens.

226. The experience of the last 10 years has shown the inadequacies in narrow one-ministry views of addressing questions related to the health of the population and employment. Economic losses related to handicaps arise not only directly, i.e. through the drawing of welfare benefits and pensions, but also indirectly, through the fact that the handicapped do not participate in creating the gross domestic product. Additional losses arise through the inability to make use of education, abilities and experience, through the declining participation in creating GDP of relatives and close persons caring for the handicapped person and the statistically demonstrable increased need for health care for a person where rehabilitation does not work. A prerequisite for effective drawing on financial resources for the handicapped is introducing unified rehabilitation, which is based on handicap evaluation by the criteria recommended by WHO.[139] In May 1999 the Government, by resolution[140] charged the Minister of Labour and Social Affairs to prepare, by the middle of 2000, a draft "Concept of unified rehabilitation" (to go into effect on 1 January 2001).

Restrictions for the performance of some positions

227. In connection with efforts to limit the influence of people closely connected with the pre-1989 regime in important public positions and in controlling positions in repressive bodies of State power, two so-called "lustration laws" were passed: the federal Act, which Provides Certain Other Requirements for the Performance of Certain Positions in State Bodies and Organisations,[141] and a supplementing Act of the Czech National Council on Certain Additional Requirements for Performance of Certain Positions Filled by Designation or Appointment of Police Officers and Officers of the Prison Service.[142]

228. Important positions under these laws are positions filled by election, appointment, or designation in State administrative bodies, in the army, in the Security Information Service, in the Office of the President of the Republic, in the Office of the Government, in the Office of the Supreme and Constitutional Court, in the presidium of the Academy of Sciences, in radio and television, in State companies and organizations, and State funds and financial institutions, including the Czech National Bank. The law also applies to judges, prosecutors and judicial trainees, and it sets conditions of reliability for the conduct of certain licensed trades.[143]

229. A requirement for holding positions under these laws is that, from 25 February 1948 to 17 November 1989, the person was not a member of the State Security Police, was not registered as a conscious collaborator of the State Security police in certain categories, was not a secretary of a body of the Czechoslovak Communist Party at the district level or higher, or a member of the party's Central Committee, an employee of the political apparatus of these institutions, a member of "purification" commissions or the action committee after 1948 and after 1968, a member of the People's Militia or a student of a university which educated political workers and State Security Police officers or a student at certain Soviet universities.

230. The lustration laws' defenders said that they were a preventive measure which was necessary to protect the nascent democratic order. Opponents criticized the lustration laws

primarily on the grounds that their measures actually functioned as an extrajudicial sentence which was retroactive and thus unacceptable. They also criticized the fact that the laws imposed a blanket punishment on the cited categories of persons, without individual review of guilt.[144] The last effective date of both these regulations is 31 December 2000.[145]

231. The International Labour Organization's inspection bodies acknowledged the importance of the lustration laws during the period of transition to democracy, but they welcomed their limitation in time. They also criticized the overly wide scope of the laws' application, particularly in the context of filling positions in the State administration. Council of Europe bodies also criticized the law.

Paragraph 2

232. The CR Government created a system of public employment services (labour offices) in order to prepare, formulate and implement the employment policy. The Czech Republic submitted detailed information on legislative and practical measures of the active and passive employment policy and on employment services to the Committee of Experts on the Application of Conventions and Recommendations of the International Labour Organization for the implementation of Conventions No. 122 (on employment policy), No. 159 (on vocational rehabilitation and employment of disabled persons) and No. 88 (on employment service). On issues of free conduct of employment, the Czech Republic submitted to the International Labour Organization a report on the implementation of Convention No. 29 on forced labour and Convention No. 105 on abolition of forced labour. With the exception of Convention No. 105, which entered into force for the Czech Republic on 6 August 1997, all these conventions went into effect in the Czech Republic on 1 January 1993.

233. In 1975 the Czech Republic also ratified International Labour Organization Conventions No. 140 on paid educational leave and No. 142 on human resources development.

234. In addition to requalification, mentioned above, the labour offices, as part of the active employment policy, also ensure the creation of new jobs by providing contributions to employers when they employ job applicants. They establish socially useful jobs,[146] organize publicly beneficial work, financially support employers who create jobs for internships for school graduates or qualification of a minor registered with the labour office, provide contributions for protected workshops and protected workplaces for disabled people, and provide wage subsidies for companies changing to a new programme, with the aim of preventing temporary dismissal of employees.

235. In May 1999 the Government approved a concept document, the National Employment Plan,[147] and established the Employment Committee as the coordinating and consulting body to the Ministry of Labour and Social Affairs. The main measures in the implementation schedule for the National Employment Plan are:

(a) Beginning with the 2000/2001 school year, to gradually reform the management and financing of the school system, primarily secondary and post-secondary occupational education, with the aim of creating, through the education system, conditions for balance between the structure of school graduates' qualifications and the needs of the labour market;

(b) Beginning with the 2000/2001 school year, to gradually introduce into the teaching plans of schools, especially elementary schools, the subject "choice of occupation," aimed at shaping student attitudes, and, in cooperation with the labour offices, include information about current and future opportunities in the labour market in the teaching in elementary, secondary and post-secondary occupational schools;

(c) To gradually increase the ratio of earned income to welfare income, primarily among persons with expected low income, and provide advantages to people who are economically active over people who are economically inactive. In accordance with this assignment, to increase the minimum wage so that it will reach a level higher than subsistence level of an adult living alone;

(d) To change and expand the jurisdiction and opportunities, including organizational and financial, of employment services bodies, in accordance with labour market needs. Prepare a new Employment Act so that it can go into effect as of 1 July 2001. The law should comprehensively and interconnectedly address the employment of foreigners, but also the placement of handicapped persons and their protection in the labour market, and that of persons who are difficult to employ;

(e) To prepare measures to increase the employment of long-term unemployed job applicants, with consideration for members of the Roma community;

(f) To support the creation and development of industrial zones and entrepreneurial activities that create new jobs. Simultaneously, to support small and medium-sized business, through direct support and decreasing the tax burden;

(g) To give priority in awarding public contracts to ensuring employment of job applicants, particularly those difficult to place;

(h) To create conditions for application of flexible forms of work organization and working hours, permitting the needs of employers and employees to be reciprocally adapted; to create conditions for shortening work time and for part-time work; to create pressure to decrease overtime work;

(i) On an ongoing basis to track the level of implementation of the right to employment among groups affected by discrimination;

(j) To contribute to eliminating unjustified differences in salary between men and women.

236. The new plan was a reaction to developments in the labour market since the creation of the Czech Republic and to requirements stated in the economic strategy of the Czech Republic for entry into the European Union: reviving economic growth, increasing competitiveness, qualification of the labour force and increasing employment.

237. Basic public transportation services, particularly public transportation,[148] are also related to implementation of the employment policy. Ensuring basic public transportation services in a territorial area - in the Czech Republic, primarily a district - means ensuring appropriate transportation to work and schools, but also to courts and basic health care facilities, including return transportation, every day of the week. Public transportation is not provided equally throughout the Czech Republic. The scope of the network and the opportunities for bus and passenger rail transportation are affected, among other things, by the financial possibilities of the State and municipalities.

Personal transportation: passengers (in millions)

	1993	1994	1995	1996	1997	1998
Railway transport	242	229	227	219	203	183
Bus lines	9.09	8.20	7.67	6.32	5.88	5.98
City public transportation	2 635	2 575	2 262	2 207	2 162	2 175

Source: Ministry of Transport and Communications, 1999.

238. The total employment level in the first years of transformation was, on average, satisfactory. The service sector especially played an important role in maintaining a high level: in 1998, 53.6 per cent of all economically active persons worked in this sector. Agriculture and forestry had only 5.5 per cent, and industry 40.9 per cent. Although employment decreased sharply in most large industrial companies, many small companies and independent entrepreneurs sprang up, with roughly 780,000 job opportunities.

239. In addition, the following contributed to the satisfactory employment level up to 1994: a decrease in the number of working persons of retirement age, the extension of maternity leave from two to three years, the extension of provision of parental subsidy until a child reaches the age of four, and the extension of vacation by one week. People retiring before reaching full retirement age also contributed to the low level of unemployment.

Labour market development

Year	Unemployment (%)	Total (Thousands)
1993	3.52	185
1994	3.19	166
1995	2.93	153
1996	3.52	186
1997	5.23	269
1998	7.48	387
1999	8.39	435

Source: Ministry of Labour and Social Affairs, 2000.

Note: Data as of 31 December each year; data for 1999 as of 30 June. As of 31 December 1999 the unemployment rate was 9.4 per cent.

240. The privatization method in the Czech Republic also played a part. Companies were not restructured before privatization, and this process was shifted to the new owners. Thus, an increase in unemployment is expected in connection with completing privatization.

241. The unemployment rate did not begin to grow significantly until the last months of 1997. Vulnerable groups are primarily young people without experience, women with small children, people with low or no qualifications and the handicapped. In many cases a person may have several of these characteristics. People from these groups are most often among the repeatedly or long-term unemployed.

Numbers of registered job applicants in vulnerable groups
(thousand persons)

Indicator	1993	1994	1995	1996	1997	1998	1999
Total registered job applicants	185	166	153	186	269	387	435
Job applicants up to age 19	29	22	20	24	33	33	25
20-24	28	25	22	28	46	95	107
Job applicants with compulsory education	70	65	62	71	90	117	131
Duration of unemployment:							
up to 3 months	86	67	60	77	100	134	133
over 3 to 6 months	43	37	33	43	68	99	92
over 6 to 9 months	18	17	14	18	30	41	53
over 9 to 12 months	12	11	10	10	18	27	47
over 12 months	27	35	36	38	53	87	110

Source: Statistical Yearbook of the CR, 1999.

Note: Indicator values as of 31 December of each year; data for 1999 as of 30 June.

242. There are significant territorial differences in unemployment rates. Two clear types of problem territories have arisen. One type is districts with a high proportion of industry concentrated in only a few manufacturing branches, where production declined or was cancelled (coal mining, iron works, heavy industries, manufacturing of train cars, trucks, etc.) without the decline being balanced out by new job opportunities. These are primarily districts in northern Moravia and northern Bohemia with a high urban population density. The second type is economically weak districts with a below-average share of industry and an above-average share of agriculture, with a low population density (mountain and border districts in northern and southern Moravia, but also in northern, southern and western Bohemia).

Unemployment rate by region[a] (as of 31 December 1998)

Indicator	Total	Men	Women
General unemployment rate (ILO)	7.3	5.7	9.3
Prague	3.6	2.9	4.3
Central Bohemia	6.2	4.6	8.3
South Bohemia	5.0	4.0	6.2
West Bohemia	6.5	5.5	7.8
North Bohemia	12.0	9.2	15.6
East Bohemia	6.5	4.8	8.7
South Moravia	6.4	4.9	8.3
North Moravia	10.0	7.9	12.6

Source: Statistical Yearbook of the CR, 1999.

[a] Regions by territorial administrative divisions used for purposes of statistical classification until 31 December 1999.

243. Overall, the situation in the labour market in the Czech Republic can be described as follows:

(a) As a result of the Czech Republic's lower economic growth in 1997, the method of privatization and the unfinished restructuring of companies, labour force supply began to exceed demand. Further unemployment growth can be expected in connection with completing the transformation of the economy and its recovery. The number of job applicants is increasing, but the number of available jobs is declining;

(b) The structure of the labour force by profession and qualification does not match the structure of demand in the labour market. A connection between the education system and the labour market is lacking. The natural development of private schools and the unresolved situation of vocational schools (financing and management) and a decline in student interest in technical fields has led to a shortage of graduates trained in certain manual labour occupations and technical fields. On the other hand, there has been an increase in the number of graduates who did not find jobs in the labour market (particularly in the economic fields);

(c) The prerequisites for geographic mobility of the labour force are lacking. Workers with average and below-average incomes (more than 60 per cent of all employees) do not have the opportunity to move to find work, in view of the undeveloped housing market for these income categories. Transportation services are also decreasing, and expenses for public transportation are increasing. This also worsens the ability to address the situation in areas with critical unemployment rates;

(d) The levels of salaries and welfare benefits are not balanced: the current ratio does not motivate people with low qualifications and low incomes to work. One of the results is the growing number of long-term and repeatedly unemployed. Problems with placing those who are difficult to employ are worsening. In 1997 the average amount of unemployment support paid was CK 2,533. In the same period, the average gross monthly salary (i.e. salary before tax and deduction of social and health insurance) in the civil sector of the national economy was CK 10,696, and in the worst paid branch (the textile industry) only CK 6,861;

(e) Demand for foreign workers is high, primarily for work and occupations which do not require high qualifications, have lower pay, or are conducted in difficult working conditions. Foreign workers squeeze the domestic labour force out of the market; employing them is often advantageous for employers even at the price of breaking the law. They are often highly qualified and willing to work for lower pay;

(f) Until the adoption of the National Employment Plan, employment policy was aimed more at so-called passive policy, i.e. support payments during unemployment. The decreasing amount of budgetary funds for active employment policy measures from 1993 to 1997 made it possible to include only a limited number of job applicants in these measures. The reduced expenditures for active employment policies were not due to the reduced budgetary funds for this area, however, but from reduced effectiveness of previous active policy instruments (in particular, employers lost interest in using this form of support).

Employment policy expenditures

Year	Total (000 CK)	Active employment policy (AEP)		% of jobs[a]	Monthly financial expenditure (000 CK)
		000 CK	% of total costs		
1993	2 174 877	758 208	34.86	28.6	1 654
1994	2 571 843	727 579	28.29	26.3	1 839
1995	2 416 637	634 791	26.27	23.7	2 056
1996	2 664 492	558 086	20.95	19.9	2 306
1997	3 994 750	574 712	14.39	13.8	2 567
1998	5 117 089	923 390	18.05	14.9	2 335

Source: Ministry of Labour and Social Affairs.

[a] Share of job applicants included in active employment policy out of the average number of job applicants.

244. The National Employment Plan has been redirected from a passive to an active employment policy, to preventing high-risk events and removing systemic inadequacies in the legal regulation of employment. The Act on the State Budget for 1999[149] allocated CK 7,464,645,000 for the State employment policy in the Czech Republic's budget for 1999, including CK 1,445,936,000 for the active employment policy, which is 19.4 per cent of total expenses for employment policy.

245. Based on a government resolution for urgent measures to address the situation in the labour market,[150] in 1999, the active employment policy budget was increased, compared to the original plan, by a total of CK 550 million, of which CK 200 million were intended for investment incentives. Part of this increase, CK 170 million was acquired by shifting funds from the passive employment policy. After these adjustments, the State employment policy budget

in 1999 is a total of CK 7,844,645,000, including CK 1,992,936,000 for the active employment policy and CK 5,851,709,000 for the passive employment policy. The funds allocated for the active employment policy are 25.4 per cent of total employment policy expenses.

246. An important role in employment policy is played by the Council of the Economic and Social Agreement, which "is a joint, voluntary negotiating and initiative-taking body of the unions, employers, and the Government of the Czech Republic for tripartite negotiation with the aim of reaching agreement on basic issues of economic and social development".[151] The Council discusses selected problems which are of common interest, particularly in economic policy, labour-law relationships, collective bargaining and employment, social issues and issues of wages and salaries, but also of common interest in the non-manufacturing sphere, work safety and in the process of integrating the Czech Republic into the European Union.

247. In the Czech Republic relatively few people have second (additional) jobs. Generally, it is not necessary for a person supporting a family to have more than one job to ensure an adequate standard of living for the family. Also, in most Czech families both parents work (note the high ratio of women working in the Czech Republic). In 1996, 197,500 people had a second job, in 1997 the figure was 169,700 people and in 1998 it was 153,500 people. Concurrent employment relationships and secondary work activities are governed by the Labour Code in sections 69 to 71. If an employee arranges several employment relationships, the rights and obligations from them are evaluated independently, unless the law provides otherwise.

248. A secondary employment relationship can be arranged only for a shorter time than the designated weekly work hours. A secondary employment relationship cannot be concluded by minor employees and it has a shorter termination notice period for both employee and employer (15 days). In addition, an employee can, on the basis of a contract or arrangement of another employment relationship, perform so-called "secondary activity" for an employer with whom he has his primary employment relationship. This activity involves work of a different kind than is agreed in the employment contract and may be performed only outside the designated work hours. A second (additional) job can also be work performed on the basis of a trade licence under the Trades Licensing Act.

249. In 1998 the percentage of people with more than one job was 3.2 per cent in the civilian sector, 3.7 per cent among men and only 2.5 per cent among women. Second jobs were held primarily by employees, people aged 30 and over (the most represented age group was 45 to 49: 16.2 per cent of all people with a second job) and people with a completed secondary trade education (more than one third of the people with second jobs). Those who had more than one job most frequently were technical, health care and educational workers (24 per cent) or scientific and intellectual workers (20 per cent); another large group of people with second jobs was labourers and repair people (13 per cent). People in Prague (which also has the lowest unemployment rate and the highest level of employee qualification) and in the south Moravian region tended to have more than one job more than people elsewhere.

Second job holders in the civil sector in 1998

Indicator	Job holders total		Men		Women	
	000 persons	%	000 persons	%	000 persons	%
Total	153.5	100.0	101.0	100.0	52.5	100.0
Including (by ISCO):[a]						
Employees	61.1	39.8	34.7	34.4	26.3	50.1
Employers	8.5	5.5	6.8	6.8	1.6	3.1
Self-employed workers	79.7	51.9	57.9	57.4	21.8	41.4
Members of producers' co-operatives	0.7	0.5	0.5	0.5	0.2	0.5
Contributing family workers	3.5	2.3	1.0	1.0	2.6	4.9
One (main) job holders	4 802.6	x	2 701.9	x	2 100.7	x

Source: Statistical Yearbook of the CR, 1999.

[a] International Standard Classification of Occupations.

250. International cooperation in applying the right under article 6 of the Covenant is apparent particularly in implementing intergovernmental treaties on reciprocal employment of citizens. In the report period, the Czech Republic was bound by such treaties with Germany (signed in 1991), Poland (1992), Slovakia (1992), Viet Nam (1994), Ukraine (1996), Switzerland (only concerning exchanges of interns, signed 1997), and the Russian Federation (on temporary employment, signed 1998).

Article 7

251. The Czech Republic is a State party to the following conventions of the International Labour Organization listed in the instructions for preparing the report on fulfilment of the Covenant: No. 14 on Weekly Rest (Industry) (1921); No. 100 on Equal Remuneration (1951); No. 132 on Holidays with Pay (Revised) (1970); No. 155 on Occupational Safety and Health (1981). In 1998 the Czech Republic submitted reports on the implementation of Conventions Nos. 100, 132 and 155 to the ILO Committee of Experts on the Application of Conventions and Recommendations. The Czech Republic is also a State party to the following conventions, which relate to article 7 of the Covenant: No. 1 on Hours of Work (Industry) (1919); No. 13 on White Lead (Painting) (1921); No. 26 on Minimum Wage-Fixing Machinery (1928); No. 95 on Protection of Wages (1949); No. 99 on Minimum Wage-Fixing Machinery (1951); No.111 on Discrimination (Employment and Occupation) (1958); No.136 on Benzene (1971); No.139 on Occupational Cancer (1974); No.148 on Working Environment (Air Pollution, Noise and Vibration) (1977); No.167 on Safety and Health in Construction (1988).

Compensation for work

252. Article 28 of the Charter of Fundamental Rights and Freedoms reads: "Employees have the right to fair remuneration for their work and to satisfactory work conditions. Detailed

provisions shall be set by law." Legal regulations for compensating employees in an employment relationship are contained in the following regulations (acts and sub-statutory norms):

- The Labour Code, particularly sections 119 to 121;
- The Act on Wages, Remuneration for Stand-by Work and Average Earnings;
- The Act on Salaries and Remuneration for Stand-by Work in Budget and Certain Other Organisations and Bodies;
- The Act on Salaries and Certain Other Entitlements of State Prosecutors;[152]
- The Act on Bankruptcy and Settlement;[153]
- The Collective Bargaining Act;[154]
- The Government Decree on Salaries of Employees of State Administrative Bodies, Certain Other Bodies and Municipalities;[155]
- The Government Decree on Personal Income Provided to Ministers of Churches and Religious Societies;[156]
- The Government Decree on Setting the Amount of Funds Expended for Salaries and Compensation for Stand-by Work in Organisations Funded from the Budget and Certain Other Organisations and Bodies;[157]
- The Government Regulation on the Minimum Wage;[158]
- The Government Regulation implementing the Labour Code;[159]
- The Government Regulation on Setting Minimum Wage Levels and Wage Benefits for Work in Difficult or Unhealthy Environments and for Night Work;[160]
- The Government Regulation on Conditions for Providing and the amount of a special Supplemental Payment for Working in Difficult and Unhealthy Working Conditions;[161]
- The Government Regulation on the Method of Calculating the Basic Part which Cannot Be Withheld from Monthly Wages in Execution of a Decision and on Setting the Part of Wages which Can Be Subject to Withholding without Restriction;[162]
- The Government Regulation on Salaries of Employees of Organizations Funded from the Budget and Certain Other Organisations;[163]

- The Government Regulation on Salaries of Members of the Armed Forces, Security Forces and Services, Customs Administration Bodies, Members of the Fire Safety Corps and Employees of Certain Other Organisations.[164]

253. All generally binding wage regulations are published in the collection of Laws, and every employee can familiarize himself with regulations under which his wage is established, at his employer's place of business, at any time.

254. The Labour Code, the Act on Wages and the Act on Salaries establish the right of an employee to wages (salary) for work performed. Wages (salary) means monetary and non-monetary (in kind) remuneration provided by the employer for work. Remuneration provided under special regulations in connection with employment is not considered wages (salary), namely, wage replacement, severance pay, travel expense compensation, revenue from capital holdings (shares), bonds and compensation for emergency work availability (standby).

255. In budget-funded and subsidized organizations, the law and implementing regulations set mandatory procedures for providing salaries. The basis for ensuring equal compensation for men and women in these organizations is a system of salary classes (presently with 12 levels, expansion to 16 levels is being prepared to take effect as of 1 January 2002) and catalogues of work, which are binding instruments for classifying employees into salary classes. In the private sphere wages are set primarily in an employment contact or collective agreement, which is the culmination of collective bargaining at the level of a company or an entire economic branch. Collective agreements are made on a company or higher level. Collective bargaining covers roughly 40 per cent of employees in the private sphere. Procedures in collective bargaining are set by the Collective Bargaining Act.

Average gross monthly wages in the civil sector of the national economy (in CK)

	1990	1995	1996	1997[a]	1998[a]
Total	3 286	8 172	9 676	10 691	11 693
A. Agriculture, hunting and forestry	3 603	6 878	7 808	8 506	9 222
B. Fishing, fish farming, service activities	4 360	-	-	10 610	11 616
Industry, total (C to E)	3 410	8 148	9 587	10 726	11 859
C. Mining quarrying	4 476	10 039	11 610	13 043	14 653
D. Manufacturing	3 271	7 854	9 259	10 411	11 500
E. Electricity, gas and water supply	3 851	9 730	11 516	12 991	14 510
F. Construction	3 612	8 837	10 166	11 234	12 076
G. Wholesale and retail trade; repair of motor vehicles, motorcycles, personal and household goods	2 818	7 201	8 499	10 488	11 917
H. Catering and accommodation services	2 671	7 352	8 487	8 297	8 940
I. Transport, storage, post office and telecommunications	3 438	8 241	9 853	11 306	12 638
J. Financial intermediation	3 351	14 017	16 407	18 665	21 168
K. Real estate, renting, business activities, research and development	3 179	8 896	10 494	11 728	13 082

	1990	1995	1996	1997[a]	1998[a]
L. Public administration, defence, compulsory social security	3 299	9 608	11 460	11 788	12 061
M. Education	2 894	7 426	8 994	9 422	9 851
N. Health care; veterinary and social activities	3 043	7 529	9 068	9 622	9 946
O. Other public social and personal services	2 543	6 720	8 097	9 275	9 998
Public sector, total	-	8 216	9 836	10 656	11 353
Private sector, total	-	8 130	9 665	10 709	11 861

Source: Statistical Yearbook of the CR, 1999.

[a] Preliminary data.

256. The Labour Code, the Act on Wages and the Act on Salaries stipulate that wages (salary) may not be lower than the minimum wage. This regulation applies equally for all employers in the private and public spheres. The minimum wage is set by government decree. As of July 1999 the minimum wage was CK 3,600 for employees who receive a monthly wage, or CK 20 for each hour worked by the employee within the designated working hours. Since 1 January 2000 the minimum wage is CK 4,000 for employees who receive a monthly wage, or CK 22.30 for each hour worked by the employee within the designated weekly working hours. The minimum wage is expected to increase again as of 1 July 2000, which will contribute to the gradual fulfilment of the aim of the National Employment Plan, i.e. to increase the minimum wage to above the subsistence level of an adult living alone.[165] Since 1 January 2000, after withholding social and health insurance and income tax advance payments, an employee who works for the minimum wage gets paid a wage of 99.5 per cent of the minimum standard of living of an adult living alone.

Minimum wage growth in relation to the average wage and the minimum standard of living (annual averages)

Year	Minimum wage in CK		Average net	Subsistence	NMW[a]/ISL[b]
	Gross	Net			
1992	2 200	1 802	3 715	1 700	106.0
1993	2 200	1 902	4 613	1 917	99.2
1994	2 200	1 878	5 398	2 143	87.6
1995	2 200	1 908	6 341	2 440	78.2
1996	2 500	2 188	7 538	2 718	80.5
1997	2 500	2 188	8 115	2 965	73.8
1998	2 650	2 319	8 820	3 333	69.6
1999[c]	3 425	2 963	9 558	3 430	86.4

Source: Ministry of Labour and Social Work.

[a] Net monthly wage. Starting in 1997, including wages in small companies with up to 20 employees.

[b] Individual subsistence level (ISL).

[c] Data for 1999 are an estimate of the annual growth of the nominal wage in 1999 + 8.3 per cent.

257. The minimum wage for employees aged 18 to 21 who are in their first employment relationship or similar working relationship is 90 per cent, for minor employees it is 80 per cent, for employees who draw a partial disability pension, it is 75 per cent and for employees who draw a full disability pension and juveniles who are fully disabled and do not draw a full disability pension it is 50 per cent of the amounts stated. Individual collective agreements may set a higher minimum wage and this opportunity is generally used.

258. At present the Government places great emphasis on the issue of the minimum wage, and in its programme declaration[166] it committed itself to gradually (by 2002 at the latest) increasing the minimum wage above the minimum standard of living of an adult living alone. The minimum wage increase is also contained in the National Employment Plan, with the aim of giving advantages to economically active people over economically inactive people, or to increase the ratio of work income to welfare income.

259. In organizations in the private sphere where a collective agreement has not been concluded or wages are not set in a collective agreement, the Act on Wages, Remuneration or Stand-by Work and Average Earnings provides increased protection to employees against disproportionately low wages by setting minimum wage scales.[167] Minimum wage levels are graduated according to the complexity, responsibility and difficulty of work within the individual scale levels. The individual levels are set by government decree, with the minimum wage amount for the first scale level for the simplest work being the same as the minimum wage.

260. The number of people working at minimum wage and the minimum wage level for the first scale level is relatively small. Data from the Ministry of Labour and Social Affairs information system, which covers roughly 1 million employees, indicate that in the second quarter of 1999 only 0.3 per cent of employees drew an hourly wage of up to CK 23, i.e. a maximum of CK 4,140 per month. Low wages are more frequent in smaller organizations according to research conducted in March 1999 by the labour offices, particularly in organizations with up to 50 employees: in those organizations roughly 4.7 per cent of employees drew a wage of up to CK 4,000 per month.

261. The Czech Republic guarantees an acceptable standard of living for its citizens and their families by setting a subsistence level.[168] The subsistence level is a socially recognized minimum income level below which material need begins. It defines the amount needed to temporarily provide the basic material needs of individuals and households. For the most common type of household with children - a full four-member household (two adults and two children) - the subsistence level in 1999 was CK 9,490 to 10,870 per month, depending on the age of the dependent children (see text to article 9 of the Covenant). The average gross wage in the first half of 1999 reached CK 12,063 per month. The ratio of a family's subsistence level to the average gross wage for the first half of 1999, with one adult employed, was 78.7 to 90.1 per cent; with two adults employed, it was 39.3 to 45.1 per cent.

Incomes of employee households in 1998

(average CK/month for a four-member household with children where one or two persons are employed)

	Household with one economically active person	Household with two economically active persons
Gross monetary income	21 364	29 522
of which gross employment income	15 937	25 896
Total net income (incl. in kind)	19 731	25 081
of which net monetary income	18 147	23 967

Source: Family Budget Statistics, the Czech Statistical Office.

262. The ratio of a family's subsistence level to the family's net monetary income from employment, in a family with one economically active person, was 52.3 to 59.9 per cent; in a family with two economically active persons it was 39.6 per cent to 45.4 per cent.

263. Applying the principle of equal pay for work of equal value, women have the same status in work as men. On the other hand, neither the Labour Code nor other regulations governing compensation directly state that men and women are entitled to the same compensation for the same work or work of equal value. This shortcoming is all the more visible as the difference in the average (hourly) wage between men and women increases from year to year.

264. Implementation of the principle of equal compensation is anticipated by amendments to the Labour Code, the Act on Wages, Remuneration for Stand-by Work and Average Earnings and the amendment to the Act on Salaries and Remuneration for Stand-by Work in Organisations Funded from the Budget and Certain Other Organisations and Bodies (see also the text to article 3 of the Covenant).[169] The amendments to these laws directly state the principle of equal compensation for men and women (equal compensation for equal work or work of equal value).

265. All laws and other legal regulations on wages are based on the principle of equal compensation of all workers and the principle of equal compensation for work of equal value. Wage regulations generally speak of the employee as "he", but they apply equally to both sexes. The work evaluation system, catalogues of work and definitions of wage levels are "neutral by sex and otherwise" and are based on criteria which are non-discriminatory (complexity, responsibility and difficulty of work). The Labour Code provides employees who feel discriminated against in this regard the opportunity to correct the situation in court.

266. Statistical data for evaluating the state of equal compensation are drawn from random sampling surveys by the Ministry of Labour and Social Affairs, which is organized quarterly, and currently contains data about roughly 40 per cent of employees. In addition to the Ministry of Labour and Social Affairs research, the Czech Statistical Office also organizes annual special random sampling surveys on wages.

267. According to the latest available data (the first half of 1999) women have hourly wages which are on average 26.3 per cent lower than men. The differences in compensation between men and women have a slightly declining trend (see also the text on article 3 of the Covenant).

268. The smallest differences between earnings are among men and women performing simple work which does not require higher qualification or the simpler work requiring higher education. The biggest differences in earnings appear between men and women performing specialized trade or medium-level technical work and also those performing the most complicated work requiring higher education.

269. The lower average wage earned by women is fundamentally influenced by their maternal and family roles and the resulting gaps in their professional careers on the grounds of maternity (maternity leave, caring for sick children, etc.). These gaps also cause a lower average accumulation of professional and work experience and affect women's opportunities to assume work with higher demands on their time and greater responsibility.

270. Legal regulations permit creating working conditions for women which will make it easier for them to work, not only with regard to their physiological requirements, but also, for example, with regard to their role in bearing and caring for children. However, it must be added that many Labour Code provisions which were, in the past, formulated as a prohibition of something in the interest of protecting women have been reformulated by amendment of the Code as an opportunity for protection which a woman may, but need not take advantage of. As a result of harmonizing CR law with European Community law (particularly decrees on equal treatment of men and women) women will be provided special protection only where specific conditions require it.

271. The institution of special protection for women in the Czech Republic is no longer completely in harmony with developments in developed European countries. The areas deserving special protection are being gradually narrowed and, as a result of scientific and technical developments, protection of women generally is ceasing to be considered justified, except for women who are pregnant or nursing and mothers shortly after childbirth.

272. The amendment to the Labour Code, in accordance with the principle of equal treatment of men and women in employment, regulates the conditions for entitlements based on caring for children, so that they are accessible to both parents equally (e.g., the institution of additional maternity leave is changed to the institution of parental leave). Apart from the principle of equal treatment, there are still entitlements based on care for children in which the mother cannot be replaced (maternity leave).

273. Concerning this issue, in 1998 the Czech Republic filed a report with the ILO on implementation of Convention No. 100 on Equal Remuneration, to which reference is made.

274. In corporate and entrepreneurial practice, there are employers who do not fulfil one of the fundamental obligations toward their employees which are guaranteed by the Charter, the Labour Code and other laws, primarily the laws on wages (salaries), remuneration for standby work and average earnings: the obligation to provide wages or salary for work performed. In such cases, employees are not sufficiently protected by legal regulations. The existing legal arrangement,

which is to guarantee satisfaction of wage claims for employees whom their employer does not pay, applies only to the scope of the Act on Bankruptcy and Settlement.[170] Of course, this protection is lengthy, difficult and ineffective for employees, even though they can make their wage claims in bankruptcy proceedings as priority receivables.

275. The inadequate guarantee of the right to wages for work performed was also subject to criticism in the regular report of the European Commission about the Czech Republic for 1999. For those reasons, and in accordance with the Government's legislative work plan,[171] in December 1999 the Minister of Labour and Social Affairs submitted a draft law on protection of employees in the event of employer insolvency. The draft law is also necessary from the perspective of harmonizing the domestic legal order with the law of the European Community.[172] Under the proposed law the State is the guaranteeing institution in the Czech Republic in case of employer insolvency.

276. The draft law defines insolvency in accordance with the Act on Bankruptcy and Settlement. However, it transfers jurisdiction for exercising payable wage claims to the labour offices and not to the preliminary bankruptcy trustee. The draft also defines subjects to whom the law will not apply, and the concept of wage claims. In the interest of accelerated satisfaction of a wage claim and limiting the disadvantageous financial situation of the employee and his/her family, the labour office will confirm the claim in undisputed cases and ensure its payment; in other cases it will make a decision based on evidence submitted by the employer or bankruptcy trustee and the employee. The law is expected to go into effect on 1 July 2000.

277. For regulations and measures which guarantee everyone the minimum funds necessary to ensure a decent life for them and their families, we refer to the text on article 9 of the Covenant, on the social security system.

Safe and healthy working conditions

278. In evaluating observance of article 7 (b) of the Covenant, we refer to reports on the implementation of ILO Convention No. 155.

279. The main regulations governing issues of safety and health protection of employees are:

- The Labour Code;
- The Act on State Specialized Supervision of Work Safety;[173]
- The Act on Public Health;[174]
- The Act on Mining Activity, Explosives and the State Mining Administration;[175]
- The Decree on Creation and Protection of Healthy Living Conditions;[176]
- The Decree on Record-keeping and Registration of Work Injuries and on Reporting Operating Mishaps (Accidents) and Breakdowns of Technical Equipment;[177]

- The Decree Setting the Extent and Conditions for Providing Personal Protective Working Equipment and Washing, Cleaning and Disinfecting Materials;[178]

- The Decree Setting Basic Requirement for Ensuring Work Safety and Safety of Technical Equipment.[179]

In addition to these regulations, safety of workers at work is also ensured by many other legal regulations and technical standards. These regulations are cited in the Czech Republic's reports on implementation of ILO Conventions No. 155 and No. 148.

280. The right to healthy working conditions arises from:

(a) The right to protection of health under article 31 of the Charter: "Everyone has the right to the protection of his/her health. Citizens shall have the right, on the basis of public insurance, to free medical care and to medical aids under conditions provided for by law";

(b) The right to satisfactory working conditions under the above-mentioned article 28 of the Charter;

(c) Article 29 of the Charter, which guarantees increased protection of women, juveniles and persons with health problems:

> "(1) Women, juveniles, and persons with health problems have the right to increased protection of their health at work and to special work conditions.
>
> "(2) Juveniles and persons with health problems have the right to special protection in labour relations and to assistance in vocational training."

281. The employer is liable for damage caused to an employee by a work injury incurred while performing work assignments or in direct connection with them. Employees are required to observe regulations for ensuring safety and protection of health at work (section 73, paragraph 1c, of the Labour Code) and supervisory employees are required to ensure this safety and protection (section 74 of the Labour Code). Knowledge of the regulations for ensuring safety and the protection of health at work is an integral part of the prerequisites' qualification. Sections 133 to 136 of the Labour Code set out detailed rights and obligations of employers and employees.

282. The expression "regulations for ensuring safety and the protection of health at work" must be understood to mean all regulations for the protection of life and health, hygiene and anti-epidemic regulations, regulations on the safety of technical equipment and technical standards, transportation regulations, regulations on fire safety and regulations on handling flammable and explosive materials, weapons, radioactive materials, poisons and other materials harmful to health, provided they regulate issues concerning protection of life and health. These include regulations and safety and the protection of health at work issued by central bodies or employers in agreement with the relevant State supervisory bodies with authority over safety of work and technical equipment and the relevant union body (section 273 of the Labour Code).

283. State supervision of work safety and the protection of health at work are performed by:

(a) The Ministry of Labour and Social Affairs of the CR and its subordinate Czech Office of Work Safety, through work safety inspections;

(b) The Czech Mining Office, through mining offices;

(c) Trade union bodies (section 136 of the Labour Code);

(d) Bodies of the State Health Inspectorate (under the Act on Public Health).

284. Detailed information on legal regulations and practice concerning questions governed by instruments of the International Labour Organization on work inspection (Convention No. 81 and Recommendation No. 81 on Labour Inspection; Convention No. 129 and Recommendation No. 133 on Labour Inspection in Agriculture) was contained in reports submitted in the past to supervisory bodies of ILO under article 19 of the ILO Constitution on non-ratified conventions.

Work injuries in the Czech Republic

	1993	1995	1998
Number of newly reported work injuries	109 908	106 275	107 175
Number of work injuries per 100 employees	2.33	2.26	2.24

Note: In 1993 there were 368 fatal work injuries, in 1995 there were 257 fatal injuries and in 1998 there were 267 fatal work injuries. Roughly 10 per cent of fatal work injuries were to women.

285. Regulations on safety and the protection of health at work apply to workers in all branches of the national economy. All workplaces are subject to review by the appropriate inspection bodies. In practice, however, the level of observance of work safety regulations is sometimes low, particularly in smaller companies. In modernizing the legal regulation of labour-law relationships and working conditions according to the requirements of European Community legal requirements, the Ministry for Labour and Social Affairs faces two important goals in the coming period: building a functioning, integrated work inspection body and creating a new system of work injury insurance. Fulfilment of these tasks is related to the Ministry's assignment to rebuild the existing system of labour offices, work safety inspections and health inspection bodies, because the existing legal regulations and their institutionalization still reflect the history of interventionist management, and to prepare a proposal for comprehensive legal regulation of ensuring safety and protection of health at work. An important task is to change the current system of work injury insurance so that the new system will provide positive incentives to prevent work injuries and other injuries to health at work. The current legal regulations do not make it possible to develop sufficiently effective economic pressure so that businesses will devote due attention to questions of safety and protection of health at work and so that they will take work injury trends into account in providing working conditions.

Equal opportunity for promotion

286. Article 3 of the Charter states that its rights and freedoms are guaranteed to everyone without differentiation. This principle also applies to promotion in employment. Promotion to higher jobs is based primarily on demonstrated ability, education and experience. Promotion is done based on work evaluation of employees (under section 74 of the Labour Code, employers are required to evaluate the work results of subordinate employees).

287. The employer is required to discuss the evaluation of work results with the employee and, upon request, give the employee a copy. If the employee does not agree with the evaluation, he/she can apply to a court (section 60 of the Labour Code).

288. Article 26 of the Charter states that, "Conditions and limitations may be set by law upon the right to engage in certain professions or activities". In 1991, on the basis of this provision, Act No. 451/1991 Coll., was passed, which sets forth certain prerequisites for the performance of certain positions in State bodies and organizations of the Czech and Slovak Federal Republic, the Czech Republic and the Slovak Republic. In further evaluation of this "lustration law" we refer to the options submitted to the inspection bodies of the ILO in connection with the complaint of the Union Association of Bohemia, Moravia and Silesia about violation of ILO Convention No. 111, and also the text on article 6 of the Covenant.

289. An important legal instrument (with direct effect in the CR) in support of equal opportunity in promotion in employment is ILO Convention No. 111, which sets forth in article 2 the obligation of the State to ensure equal opportunities and equal treatment in issues of employment and occupations without any discrimination. Occupation and employment also means access to specialized training, access to employment and to various occupations and conditions of employment. Any differentiation, exclusion or preference based on qualifications required for a certain occupation is not considered discrimination.

290. A citizen (worker) can seek to enforce equal opportunity for promotion in the courts, relying on article 3 of the Charter or directly on Convention No. 111 and article 7 of the Covenant.

Rest, free time, limited working hours, paid vacation, paid public holidays

291. These categories are governed by provisions of the following legal regulations:

- The Labour Code, particularly section 83, section 96 and section 100;[180]

- The Decree on Principles for Shortening Weekly Work time and Introduction of Operating and Working Regimes with a Five-Day Work Week;[181]

- Government Decree No. 108/1994 Coll., which implements the Labour Code;

- The Act on State Holidays, Non-Work days and memorial and significant days;[182]

- The Act on Wages;[183]
- The Act on Salaries.[184]

The right to rest is ensured by the legal regulation of the maximum weekly working hours and paid vacation.

292. Concerning uninterrupted rest between two shifts, an employer is required under the Labour Code to schedule work time so that a worker has at least 12 hours of such rest between the end of one shift and the beginning of the following shift. This rest may be shortened to eight hours for a worker over 18:

(a) In non-stop operations and in rotating shifts;

(b) In agriculture;

(c) In public dining facilities and in cultural facilities;

(d) For urgent repair work in cases of preventing danger to life or health of workers;

(e) In natural disasters and other similar extraordinary events (section 90 of the Labour Code).

Uninterrupted rest during the week

293. Each employee is entitled once a week to uninterrupted rest of at least 32 hours. If operation of the business permits, the uninterrupted rest in the week is set for all workers on the same day, and so as to include Sunday. If it is not possible owing to operating reasons to provide a worker with such uninterrupted rest, the employer may schedule the work time so that this period of rest is at least 24 hours:

(a) In seasonal and campaign work;

(b) In work in transportation, communications, in cultural facilities, in non-stop operations; provided that individual workers are allocated uninterrupted rest of at least 32 hours at least once every three weeks.

294. With work for which the work time is irregularly scheduled throughout the calendar year, and in agriculture, the employer can, based on guidelines from a central State administrative body, schedule the working hours so that the uninterrupted rest lasting at least 32 hours is allocated to individual workers once every two weeks. The uninterrupted rest during the week can be shortened at post offices and for drivers of charter tours to 18 hours.

295. Work on non-work days (i.e. on days of a worker's uninterrupted rest period during the week and on holidays) can be ordered only exceptionally. This involves work which cannot be performed on work days, e.g.:

- Work for preventing imminent danger to life or health or in natural disasters and other similar extraordinary cases;

- Work necessary with regard to satisfying the living, health care and cultural needs of the population (see section 91 of the Labour Code).

Specified working hours

296. In 1968, based on the Decree of the Ministry of Labour and Social Affairs on Principles for Shortening the Weekly Working Hours and Introduction of Operating and Working Regimes With a Five-Day Work Week, the weekly work week was shortened to 40 from 42.5 hours per week. There is a five-day work week, and Saturday and Sunday are non-work days. Section 83, paragraph 1, of the Labour Code provides that work time is a maximum of 43 hours per week. Workers younger than 16 have working hours of a maximum of 33 hours per week.

297. An employer decides on the scheduling of the weekly work time after discussion with the union body in the company. Weekly work time is scheduled so that over a week working hours do not exceed 9.5 hours in one day (section 84 of the Labour Code). If the nature of the work or operating conditions do not permit working hours to be distributed equally in individual weeks, the employer may distribute working hours differently (section 85 of the Labour Code); provided that in a certain period, usually four days, the average working hours may not exceed the limit specified for weekly working hours.

298. Overtime work is work performed at the instruction of the employer or with his consent in excess of the weekly work time arising from the previously set distribution of work time and the scheduled work shifts. An employer may order overtime work only in exceptional cases, if there is an urgent social need. A worker's overtime work may not be more than eight hours in a week (this restriction does not apply to seasonal or campaign work, transportation, communications, extraordinary operations, work related to supplying the population, etc.). A worker may be assigned overtime work of no more than 150 hours in a calendar year. The labour offices may, after discussion with a union body, for certain activities and in a specified extent, permit additional overtime work, with the provision that the employer must agree on the additional overtime work with employee representatives (i.e. with the union body in the company). Pregnant women and women caring for a child younger than one year and juveniles (under the age of 18) may not be given overtime work (section 156, paragraph 3 and section 166, paragraph 1 of the Labour Code).

Paid vacation

299. The basic vacation is three weeks in a calendar year. An employee who reaches at least 15 years of an employment relationship after the age of 18 by the end of a calendar year is entitled to vacation of four weeks. A collective agreement or internal regulations can extend vacation by additional weeks over the above-mentioned time for employees of employers who conduct entrepreneurial activity. With employers who do not conduct entrepreneurial activity, employees can be provided one week of additional vacation (public services, State

administration). An employee who has worked at least 60 days in a calendar year in an uninterrupted employment relationship with the same employer is entitled to vacation. The draft amendment to the Labour Code sets basic vacation at four weeks.

Paid public holidays

300. Section 91 of the Labour Code provides that holidays are non-work days on which work can be ordered only exceptionally, and the only kinds of work which can be ordered are work which can be ordered on uninterrupted rest days during the week, work in non-stop operations and work necessary to guarding the employer's facilities. For each hour worked on a holiday an employee is entitled to a surcharge on wages in the amount of his average earnings per hour.

301. Monthly pay is not reduced for time off on a public holiday; wage compensation in the amount of average earnings is allocated for days when the worker does not work because a holiday fell on his/her usual work day.

302. Further, we refer to the first report on Convention No. 132 on Holidays with Pay (Revised), submitted in 1998 to the ILO Committee of Experts.

Article 8

303. The general principle for legal regulation of the right to associate in trade unions is contained in the Charter of Fundamental Rights and Freedoms. Article 27 of the Charter reads:

> "(1) Everyone has the right to associate freely with others for the protection of his/her economic and social interests.
>
> "(2) Trade unions shall be established independently of the State. No limits may be placed upon the number of trade union organizations, nor may any of them be given preferential treatment in a particular enterprise or sector of industry.
>
> "(3) The activities of trade unions and the formation and activities of similar associations for the protection of economic and social interests may be limited by law in the case of measures necessary in a democratic society for the protection of the security of the State, public order, or the rights and freedoms of others.
>
> "(4) The right to strike is guaranteed under the conditions provided for by law; this right does not appertain to judges, prosecutors, or members of the armed forces or security corps."

304. The establishment and activities of unions are governed by the Act on Association of Citizens.[185] The introductory provision of this Act (sect. 1, paras. 1 and 2) reads: "(1) Citizens have the right to associate freely. (2) Permission from a State body is not necessary to exercise this right." This Act does not apply to association of citizens in political parties and political movements, association for employment, or arranging the conduct of certain occupations, or to association in Churches and religious societies.

305. Under this Act a trade union is one of the forms of association (sect. 2, para. 1): "Legal entities may also be members of an association." The particular method of creation of an association for protection of economic and social interests is addressed in section 9a of the Act: "A trade union organization or an employers' organization becomes a legal entity on the day after the application for its registration was delivered to the appropriate ministry." Under section 3 of this Act no one may be forced to associate, to become a member of an association or to participate in its activities. Everyone is free to leave an association.

306. The so-called registration principle applies to unions and employers' organizations. Under the Act on Association of Citizens, permission from a State body is not necessary for union activities (see section 1, paragraph 2), and the Ministry of the Interior only registers unions. An application for registration of a union can be submitted by at least three citizens, of whom at least one is over 18. As of 31 December 1999 approximately 650 trade unions of employers were registered.

307. Under section 2, paragraph 4, of the Act on Association of Citizens, "soldiers on active duty may not form unions and associate in them. The scope of authorization of unions associating members of the National Security Corps (Police Force) and Prison Service in exercising and protecting their social interests is provided by a special act." Another provision of the Act on Association (sect. 4 (c)) provides that "armed associations or associations with armed units are not permitted; associations whose members hold or use firearms for sporting purposes or for conduct of hunting rights are not considered to be such associations".

The right to strike

308. Strikes are legally regulated by the Collective Bargaining Act. This Act governs strikes by unions in disputes over concluding a collective agreement or a collective agreement on a higher level and solidarity strikes in support of other strikers.

309. On the basis of the cited provision of the Charter and the Collective Bargaining Act, the right to strike as such is denied to the following professions: judges, State prosecutors, members of the armed forces and other armed services.

Trade union confederations and the membership of trade unions

310. The Czech-Moravian Confederation of Trade Unions. The largest central union organization in the CSFR was the Czechoslovak Confederation of Unions (CSKOS). After the division of the CSFR it changed its name to the Czech-Moravian Confederation of Trade Unions (CMKOS). This confederation currently brings together 30 unions. In 1999 the unions associated in CMKOS had a total of more than 1.3 million members.

311. The biggest member union is the Kovo union, which had over 410,000 members in 1999. The Czech-Moravian union of educational workers has over 130,000 members. Other unions with large memberships include the Union of Workers in Mining, Geology and the Oil Industry (90,000 members), the STAVBA CR Union (almost 80,000 members), the Union of Health Care and Social Care of the CR and the Union of State Bodies and Organisations (both

over 65,000 members) and the Union of Workers in Wood-Processing Branches and Forest and Water Management (almost 65,000 members). In contrast, the smallest member base, is still in the Union of Company Employees of the CR (around 400 members), the Sailors' Union (around 550 members) and other unions whose membership base is under 2,000 members: the Union of Aviation Employees, the Radiocommunication Workers' Union, the Union of Employees of Manufacturing and Special Purpose Organisations in Culture and the Projekt Union.

312. Other trade union confederations are:

(a) The Confederation of Arts and Culture. This central union brings together unions from the theatre, cinematography, library science, music and the creative arts. According to the latest reports, it has a total of about 120,000 members.

(b) The Union Association of Bohemia, Moravia and Silesia. In 1996, according to internal data there were 80,000 members. One third of members are registered directly with the central representative body as individual members not associated with a component organization. At present, 60,000 members are reported;

(c) The Association of Independent Unions brings together a total of 220,000 members. The members of this confederation are: the Union of Agriculture and Nutrition Workers (approximately 95,000 members), the Union of Railway Workers (72,000 active members), the Czech Union of North-Western Power Engineers, the Union of Private Employees and the Flat Glass Union;

(d) The Christian Union Coalition. This confederation has roughly 10,500 members, primarily from Moravia; it associates members without regard to branch or type of economic sector, retired people and handicapped people. At present there are transportation, education, State administration and local administration, machine engineering and women's sections.

313. Some professional union associations are independent and not affiliated with any union organization, e.g. the Physicians Union Club, the Justice Union and the Justice Employees' Union. However, these union groups do not publish their membership and it is therefore not possible to determine exactly how many people they represent.

314. In the CR, it is very problematical to determine the exact percentage of union members in the total population capable of working, because independent union organizations do not publish data about their total membership numbers.

315. The labour force in the CR includes all persons over 15. The following distinctions are made: total labour force - those employed in the national economy and the unemployed; and civilian labour force - those employed in the civilian sector and the unemployed. The employed include the self-employed. In 1998 the total labour force was 5,201,000. Despite the cited difficulties in determining the exact membership, we can state that, according to available data, approximately 33 per cent of the total labour force in the Czech Republic is organized in unions.

316. The Czech Republic is a State party to ILO Convention No. 87 on Freedom of Association and Protection of the Right to Organise[186] of 1948 and Convention No. 98 on the Right to Organise and Collective Bargaining[187] of 1949. The Government submits regular reports on the implementation of these conventions. The Czech Republic is also a State party to the International Covenant on Civil and Political Rights (see the introductory part of this report).

Article 9

317. Article 30 of the Charter says:

> "(1) Citizens have the right to adequate material security in old age and during periods of work incapacity, as well as in the case of the loss of their provider.
>
> "(2) Everyone who suffers from material need has the right to such assistance as is necessary to ensure his/her a basic living standard.
>
> "(3) Detailed provisions shall be set by law."

318. The social security system in the Czech Republic is governed by a set of legal norms and financial and organizational measures the purpose of which is to ensure the basic social rights of everyone in a difficult financial and social situation. Social security is implemented by payment of social insurance benefits or provision of social services.

319. The system is governed by the Social Security Act,[188] the State Social Care Support Act,[189] the Act on Social Neediness,[190] the Pension Insurance Act,[191] the Act on Employee Sickness Insurance,[192] the Act on Organisation and Implementation of Social Insurance,[193] the Social Security and State Employment Policy Premiums Act,[194] the State-Contributory Supplementary Pension Insurance Act[195] and others. The entire social security system rests on three basic pillars, each of which has its own particular importance. They are:

(a) Social insurance (pension and sickness);

(b) State social support;

(c) Social care.

320. The Charter authorizes the law to regulate details of the right to social security. The Social Security Act, under section 1, guarantees this right to all citizens. Social security benefits are provided by the State and are not subject to tax. The income and expenses of social insurance are components of the State budget.

321. The Czech Republic is bound by ILO Convention No. 102 on Social Security (Minimum Standards) (ratified without the parts on payments for work injuries and in unemployment) and Convention No. 128 on Invalidity, Old-Age and Survivors' Benefits (only the part on old-age pensions was ratified). In 1999 the Czech Republic submitted a detailed report on the implementation of both conventions to the ILO Committee of Experts.

Expenditures on social security

	1990	1993	1994	1995	1996	1997	1998
Sickness insurance benefits (million CK)	21 193	26 543	34 246	35 661	21 483	19 797	18 533
Of that, sickness	6 899	9 665	13 589	15 416	17 663	16 959	15 733
Children's allowance[a]	10 191	9 615	12 324	12 200	1 070	2	-
State social support benefits (million CK)	-	-	-	-	26 692	29 237	29 637
Of that, children's allowance[a]	-	-	-	-	11 124	12 495	11 493
Pensions security benefits (million CK[b])	45 527	73 635	84 232	105 788	125 561	145 109	161 805
Number of pensions paid	2 952	3 052	3 051	3 057	3 052	3 088	3 174

Source: Statistical Yearbook of the CR, 1999.

[a] In 1995, Act No. 118/1995 Coll., which Amends and Supplements Certain Acts in Connection with the Passage of the State Social Care Support Act was passed. Payments which are not of an insurance nature (childbirth grant, children's allowance, childbirth benefits, parental benefit and death grant) were moved from sickness insurance to State social support benefits.

[b] Without supplemental pension insurance and contributions to cooperative farmers pensions.

Proportion of social security expenditures to gross domestic product (in %)

	1990	1993	1994	1995	1996	1997	1998
Gross domestic product (billion CK current prices)	626.2	1 020.3	1 182.8	1 381.1	1 572.3	1 680.0	1 820.7
Total social transfers from the State budget	-	11.6	11.6	11.3	9.8	12.3	12.2
Sickness insurance benefits[a]	3.4	2.6	2.9	2.6	1.4	1.2	1.0
State social support benefits	-	-	-	-	1.7	1.7	1.6
Pensions security benefits	7.3	7.2	7.1	7.7	8.0	8.6	8.8

Source: Ministry of Finance of the CR.

[a] The system of sickness insurance benefits consists of: sickness benefit, family member care benefit, maternity benefit, and pregnancy and maternity compensation benefit. These benefits are fully provided to employees, members of producer cooperatives and cooperative farmers. Self-employed persons are not insured with family member care benefit or pregnancy and maternity compensation benefit. Job applicants do not receive family member care benefit, pregnancy and maternity compensation benefit, or sickness benefit. The decline in the share of these payments from 1995 reflects the amendment to the law described in note [a] to the previous table.

Social insurance

322. Organizations and individuals pay so-called social security insurance (i.e. premiums for pension and sickness insurance) and a contribution to the State employment policy (including material security for job seekers).

Pension insurance

323. Individual pension insurance is based on a basic system of mandatory and State-guaranteed insurance, which has a long tradition in the Czech Republic, and also on voluntary individual supplemental insurance, built on a civic and not an employee, i.e. corporate, principle. The Pension Insurance Act governs insurance for old age, disability and death.

324. The compulsory insurance system joins the principles of solidarity with individual contributions. The premiums paid by employed persons for social security are used to cover expenses for the payment of old age, disability (full and partial) and survivors' (widow, widower and orphan) pensions, as well as sickness insurance benefits and unemployment benefits, with the State guaranteeing sufficient funds in the system on an ongoing basis. The amounts of pensions paid are constructed so as to observe both the insurance principle (i.e. the amount paid depends on the premiums paid to the benefit of the beneficiary) and justified solidarity towards beneficiaries with low incomes.

325. The Pension Insurance Act governs the conditions for and amounts of all kinds of pensions. Under section 4 of the Pension Insurance Act the following pensions are provided: old age; full disability; partial disability; widow and widower; orphan.

326. The basic pillar of the pension system is its compulsory nature for all natural persons who are employed in the Czech Republic. It is one of the forms of social security, whose purpose is to prevent poverty in the life situations which are covered in the system, and it is a basic element of the civic solidarity principle. The pension insurance system is financed from ongoing contributions paid by employers, employees and self-employed persons.

327. The retirement age is being gradually increased, in the period from 1 January 1996 to 31 December 2006, to a level which is usual in the pension systems of western European countries: 62 for men and 57 to 61 for women, as of 1 January 2007.[196] Women who raised children receive an advantage: for each child raised the retirement age is decreased by one year, but no lower than 57. In comparison with the previous legal regulation, it is obvious that the difference in the retirement ages for men and women is being decreased by a gradual increase in the retirement age for women.

328. Basic pension insurance entitles every citizen of retirement age or with a long-term incapacity for employment to a pension. The State adjusts pensions from time to time according to the growth in consumer prices and to a certain extent also according to the growth of real wages.

329. Voluntary individual supplemental pension insurance has been offered by private pension funds since 1994. This system is also supported financially by the State, which provides a contribution to people taking part in this supplemental insurance. The entire system was established by the Act on Supplemental Pension Insurance with a State Contribution.[197] In this way the State supports citizens in taking personal responsibility for ensuring adequate funds for their old age. As of 1 January 2000, an amendment to the Act on Supplemental Pension Insurance goes into effect which changes the conditions for insurance, particularly in terms of strengthening the importance of long-term savings (as opposed to short-term capital deposits) and tightening the rules for management of individual funds and State supervision of them. As of 1 January 2000 contributions for supplemental pension insurance are, under certain conditions, tax deductible for individuals. However, monies which citizens deposit with these funds are not insured by law.

330. Under section 67 of the Pension Insurance Act, the Government, by decree, will raise "pensions paid whenever the aggregate consumer price index grows by at least 5 per cent from the calendar month immediately preceding the month when these pensions were last raised; however, the Government shall, by decree, increase pensions paid whenever the aggregate consumer price index grows by at least 10 per cent from the calendar month stated in the part of the sentence before the semicolon". If pensions are not raised during a calendar year, they shall be raised in the first increase after that year not only according to the growth in the consumer price index, but also taking into account the growth of real wages. Under section 107 of the Act, the Government shall also set by decree the level of the general assessment base for pensions in the calendar year and the proportion of the general assessment for all types of pensions.

331. Since the beginning of 1996, when the Pension Insurance Act went into effect, pensions were raised four times,[198] and a general assessment base was set for 1995, 1996, 1997 and 1998. The general calculation base for 1998 will be in effect as of 1 January 2000. Under section 67 of the Pension Insurance Act, pension increases will be set so that with the average old age pension it will correspond to at least 70 per cent of the growth in the consumer price index.

Pensions paid (as of 31 December of each year)

Pension	Number of pensions paid (thousand)						Average pension amount (CK)					
	1993	1994	1995	1996	1997	1998	1993	1994	1995	1996	1997	1998
Total	3 052	3 051	3 057	3 052	3 088	3 147	2 684	3 248	3 655	4 498	5 022	5 450
Full old age	1 772	1 770	1 772	1 769	1 777	1 827	2 806	3 373	3 782	4 609	5 150	5 579
Partial old age	43	41	40	37	36	32	1 722	2 160	2 410	2 987	3 283	3 445
Full disability	398	410	420	408	398	392	2 677	3 222	3 614	4 456	4 987	5 399
Partial disability	119	117	117	124	128	145	1 474	1 967	2 311	2 934	3 338	3 593
Widow	631	627	624	625	629	627	1 949	2 474	2 806	3 494	3 878	4 150
Widower	5	5	5	31	51	68	929	1 419	1 780	2 388	2 804	3 042
Orphan	60	60	62	58	59	57	888	1 338	1 636	2 181	2 546	2 761

Source: The Czech Statistical Office, 1999.

Sickness insurance

332. The sickness insurance system, like the pension insurance system, is financially supported from income flowing to the State budget from premiums for social security, with the difference that this income for social security is not recorded separately in a separate account in the State budget. A special law provides who is required to pay premiums for sickness insurance as a component of premiums for social security and to what extent.[199] Health care is paid from public health insurance payments. They are described in the text on article 12 of the Covenant, in the section Basic health care and its financing.

333. In terms of social security for families and households, certain important benefits are paid from the sickness insurance system (under the Act on Sickness Insurance).

334. Sickness benefit is due to an employee who is, under a special regulation,[200] acknowledged to be temporarily incapable of performing his/her current employment (during so-called incapacity for work) because of illness or injury, pregnancy or maternity. Sickness payments are due to a woman who is acknowledged to be unable to work in connection with pregnancy and childbirth or if she is not entitled to financial assistance for maternity. Insured persons are provided with financial payments. Sickness benefits are provided under section 15 of the Act on Sickness Insurance from the first calendar day of incapacity for work until its termination or until acknowledgement of partial or full disability, usually no longer than one year. Sickness payments are also due to an employee during a quarantine period ordered under regulations on measures against contagious diseases. The amount of sickness insurance benefits is set on the basis of aggregate non-taxed income, usually in the calendar quarter preceding the start of the entitlement to a payment. The amount of sickness benefit per calendar day is 69 per cent of the daily assessment income base, but the first three days are only 50 per cent of that base. For a daily assessment base of up to CK 360, the amount is counted in full; 60 per cent of an assessment base of CK 360-540 is counted, and higher amounts are not taken into account at all.[201] As of 1 January 2000 the determining amounts are increased to CK 400 and CK 400-590, respectively. As of the same date, monetary payments of sickness benefit will be increased annually by government decree in accordance with the growth in average wages.

335. Family member care benefit is due to employees who are caring for a sick child under the age of 10, are caring for a child younger than 10 if the educational institution which the child attends has been closed, the child has been ordered quarantined or the person who otherwise cares for the child has fallen ill or is in quarantine. It is also due to anyone who is caring for another family member if his/her state of health necessarily requires care by another person. "Family member" in these cases means that the employee lives in the same household as the sick person. This restriction does not apply for parents of children under the age of 10. Support is provided for no longer than 9 days, or 16 days for single parents. The amount of support is calculated like sickness payments.

336. Pregnancy and maternity compensation benefit is provided when transferring a pregnant worker or mother of a small child to different, lower paid work for health reasons or for reasons related to caring for a small child.

337. Financial assistance for maternity (maternity benefit) is provided during an employee's pregnancy and maternity for 28 weeks of maternity leave, beginning 6 to 8 weeks before the anticipated birth date, or for 37 weeks for single women. Financial assistance is also due to a male employee if he fulfils the statutory conditions, e.g. if he is caring for a child whose mother has died. Financial assistance for maternity is calculated like sickness benefit, with the provision that the daily assessment base is determined as of the day maternity leave begins and the amount of financial assistance per calendar day is 69 per cent of the daily assessment base for the entire period of the entitlement.

338. Reference is further made to the detailed reports on the implementation of ILO Conventions:

No. 130 - Medical Care and Sickness Benefits;

No. 12 - Workmen's Compensation (Agriculture) (1921);

No. 17 - Workmen's Compensation (Accidents) (1925);

No. 42 - Workmen's Compensation (Occupational Diseases) (1934).

339. Unemployment benefits ensure the material security of job seekers and are provided under the Employment Act.[202] The amount and conditions for providing support in unemployment are described in more detail in the text on article 6 of the Covenant. We also refer to reports on the implementation of ILO Convention No. 122 on Employment Policy.

State social support

340. State social support consists of financial transfers from the State budget based on the principle of solidarity of childless families with families caring for dependent children and the principle of support for low-income families with high-income ones. The purposes of the system of State welfare benefits is to strengthen the income of recipients, especially families with children, in situations which they are unable to solve on their own, or whom the State has an interest in encouraging. The payments serve to strengthen income in situations in which the income of families declines relatively or their expenses increase.

341. Unlike social security, State welfare support is not tied to withholding of contributions from working income. Expenses for State welfare support are paid by the State. With State welfare support the State shares in covering expenses for sustenance and other basic needs of children and families and in certain other disadvantageous situations. In specified cases support is provided depending on income level.

342. Under the State Social Care Support Act[203] (sect. 2), the following State welfare support payments are provided:

(a) Benefits provided depending on income level: children's allowance, social supplementary benefit, housing contribution, transport contribution;

(b) Other benefits: parental benefit, caregiver benefit, foster care benefits (benefits to cover a foster child's needs, foster parents' compensation, foster child acceptance grant and a contribution for the purchase of a motor vehicle), childbirth grant and death grant.

343. Apart from benefit payments which are paid under the State Social Care Support Act, as of 1 July 1997, two other welfare contributions are allocated for a limited time period and depending on income level: a contribution to compensate for the increase in heating prices (at most until 30 June 2000) and a contribution to compensate for the housing rent increase (at most until 31 December 2000). More detail on these contributions is found elsewhere in this report.

344. Section 3, paragraph 1 of the State Social Care Support Act (the range of entitled persons) reads: "State welfare support payments are due, upon fulfilment of conditions provided below, only to a natural person (the 'person') if the person and persons evaluated jointly with him are registered for permanent residence in the Czech Republic[204] under special regulations."[205] However, the condition of registration for permanent residence or long-term residence for creation of the entitlement to a payment is not required under paragraph 2 of the same provision for minor children entrusted to substitute parental care or institutional care in the Czech Republic. However, under section 3, paragraph 3, of the Act, as of 1998,[206] in justified cases "the district office with jurisdiction according to the person's place of residence shall waive the condition of permanent residence to a person who applied for permanent residence in the Czech Republic, if the person's sustenance or the sustenance of his/her children would be endangered". In addition, section 74, paragraph 5, of the Act[207] states that "the Ministry of Labour and Social Affairs may waive the condition of permanent residence in justified cases". Waiver of the condition also applies to persons evaluated jointly.

345. However, as a result of the wording of section 3, paragraph 1, of the cited Act, in the report period (particularly before the Act was amended in 1996 and 1998) there were cases where the entitled person fulfilled the condition of registration for permanent residence under special regulations, but a person evaluated jointly did not fulfil the condition. Many rejected applicants for State welfare benefits did not know about the possibility of having this condition waived under the above-mentioned procedure. In connection with this, the Ministry of Labour and Social Affairs is preparing a substantive outline of an amendment to the State Social Care Support Act. The condition for entitlement to payments will be not permanent residence, but a permanent dwelling of all jointly evaluated persons. The amendment is expected to go into effect in 2002.[208]

346. Entitlement to and the amount of State welfare benefits are calculated on the basis of the so-called subsistence level, set by the Act on the minimum standard of living,[209] section 3. For more detail on the subsistence level see this section on social care below.

State social support benefits (in million CK)

	1995[a]	1996	1997	1998
Total	1 195	26 692	29 237	29 637
of that: childbirth grant	75	483	525	563
death grant	62	347	331	519
children's allowance	-	11 124	12 495	11 493
foster care benefits	20	144	153	233
caregiver benefit	5	33	25	23
parental benefit	1 033	7 354	7 612	7 780
social supplementary benefit	-	5 691	6 224	6 273
housing contribution	-	677	813	1 367
transport contribution	-	839	938	946
separate benefits (contributions for heating and rent)[b]	-	-	116	440

Source: Statistical Yearbook of the CR, 1999.

[a] Paid from 1 October 1995, when the State Social Care Support Act went into effect.

[b] On 1 July 1997 so-called separate benefits began to be paid under Act No. 75/1997 Coll., on the Welfare Contribution for Compensating for the Increase in Heating Prices, as amended by later regulations, i.e. a contribution towards the increased heating prices and a contribution for rent, which are construed similarly as State welfare benefits. The entitlement to the contribution was regulated by a separate law because it has the specific character of price-balancing and will be paid only for a transitional period of three years.

347. In terms of social security, the most important payments made through the State welfare system are payments for families with children:

(a) Children's allowance: paid since 1 January 1996 as part of State welfare support as a payment for families with children, helping cover the expenses related to raising and feeding a family. A child living in a family with an income lower than three times the family minimum standard of living is entitled to a contribution. The amount of the contribution depends on the child's age and on the level of total income in the family, and is derived from the amounts of the minimum standard of living necessary to ensure sustenance and other basic needs of the child.

(b) Parental benefit: the contribution helps to cover the expenses of a parent (mother or father) who stays in the home in order to care personally for a small child until the child is four, or seven in the case of a child with a long-term handicap. The amount of the contribution is set as 1.1 times the minimum standard of living for personal living needs of the care-providing parent. When drawing the contribution, the parent may be employed to a limited extent, in order not to interrupt full-day care for the child;

(c) Social supplementary benefit: The social contribution is a payment to assist families with low incomes as a contribution towards expenses related to providing for the needs of their children. The entitlement to payments arises if a parent is caring for a child and the family's income does not exceed 1.6 times the family subsistence level.

Social care

348. Social care is aimed at people in material or social need. Under the Act on Social Neediness,[210] section 1: "A citizen is considered socially needy if his/her income does not reach the amounts of the subsistence level set by a special law[211] and he cannot increase the income because of his age, state of health or other serious reasons by his/her own actions, particularly his/her own work."

349. Under the law, the subsistence level is a socially recognized minimum income level under which a person is materially needy. Under section 2, paragraph 2, of the Act on the Subsistence Level: "Citizens whose income does not reach the subsistence level and who cannot increase that income due to their age, state of health or other serious reasons by their own actions, particularly their own work, are provided assistance; the method and form of providing assistance, other conditions and the level of the help are set forth by special regulations." The subsistence level is a criterion whose main function is to evaluate income inadequacy for purposes of social protection of a citizen or family. Assistance is provided in the form of social care benefits, based on the Act on Social Neediness, which supplement the inadequate income of the citizen and his/her family, generally to the amount of the subsistence level. However, it can also be provided above the subsistence level, if, upon individual evaluation of the social and economic situation of a household it is acknowledged to have justifiably higher basic living needs related to, for example, a medically recommended diet, higher expenses for housing, etc.

350. The subsistence level of a citizen or citizens whose income is evaluated jointly[212] consists of the sum of all the incomes set out by the Act on the Subsistence Level[213] for securing food and other fundamental personal needs and for meeting the necessary expenses for the household. The subsistence level in the Czech Republic has two parts. The first part applies to basic personal needs of individual jointly evaluated persons in the household. Personal needs include primarily food, clothing, shoes, other industrial products for short-term use, services and personal development. The subsistence level amounts specified for ensuring personal needs are differentiated by age in the case of dependent children and also individually for adults. The second part of the subsistence level is the need for funds necessary to pay common expenses for the household (i.e. primarily expenses for housing and related services) and differs according to the number of persons in the household. The total subsistence level is the sum of all the parts for the personal needs of individual members of the household plus one part for joint needs.

351. The subsistence level is adjusted at irregular intervals by government regulation when the combined index of consumer prices increases by at least 5 per cent over the previous level. The Government made the last adjustment by its regulation increasing the amount of the subsistence level as of 1 April 1998.[214] Since the first setting of the subsistence level in 1991, it has been adjusted seven times.

352. In the Czech Republic the subsistence level is not used only as a criterion for evaluating inadequate income. Since passage of the State Social Care Support Act in 1996, it is used as the official poverty level, but also as a technical instrument for measuring the total income level (particularly of families with children), which is used to determine the creation of an entitlement and the level of basic welfare benefits for households. Welfare benefits related to the subsistence level are demotivating in relation to income from employment, particularly in larger households. Expenses for State welfare support in 1998 were CK 29.6 billion (1.63 per cent of GDP), which was 6.4 times more than expenses for social care benefits - the third pillar of social security (CK 4.65 billion, which is 0.25 per cent of GDP) - intended for direct protection from material need (which was the immediate purpose of establishing the institution of the subsistence level as a component of the social protection system).

Ratio of household subsistence level to average wages (gross nominal)

	Subsistence level in CK		Ratio of subsistence level to wages	
	1997	1998	1997	1998
Individual	2 965	3 333	27.7	28.5
2 adults	5 240	5 813	49.0	49.7
1 adult and 1 child (aged 5)	4 715	5 250	44.1	44.9
2 adults and 1 child (aged 5)	6 995	7 740	65.4	66.2
2 adults and 2 children (aged 8 and 12)	9 045	9 930	84.6	84.9
2 adults and 3 children (aged 5, 8 and 12)	10 695	11 718	100.0	100.2

Note: The average gross nominal wage in 1997 was CK 10,691, and in 1998 CK 11,693. The calculation of the average subsistence level takes into account adjustment of its components during the year.

353. An estimation of the extent of poverty as measured by household income distribution, prepared according to OECD methods, shows that the Czech Republic has relatively limited poverty. The ratio of poor households with incomes up to 50 per cent of the median, calculated on the base of the 1999 micro-census, was only 3.61 per cent. An important role in this is played by the systems of pension insurance and State welfare support, which contain important provisions that de facto increase the income of most pensioners and families with children above the level generally recognized in Europe.

354. In 1996 in the Czech Republic 2.1 per cent of households had incomes up to 40 per cent of average income, 5.4 per cent of households had incomes up to 50 per cent of average income and 11.6 per cent of households had incomes up to 60 per cent of average income. In relation to the subsistence level in the same year, 2.1 per cent of households had incomes below the subsistence level and 18 per cent of households had incomes below 1.6 times the subsistence level. A total of 70.6 per cent of households had income equivalent to three times the subsistence level, and only 29.4 per cent of households had incomes higher than three times the subsistence level. Poor households are characterized primarily by a larger number of members who are not economically active, as well as being headed by a person with only a basic education or only education in a trade.

355. The purpose of social care benefits is primarily to address a difficult life situation. This can be a heavy medical handicap, long-term unemployment of a family member and a markedly declining living standard, natural disasters and other things. Under section 4 of the Act on Social Neediness: "A citizen who is considered socially needy under this Act is provided one-time or monthly repeating financial or material benefits to ensure food and other basic household expenses", or increased expenses as the result of an unexpected situation. "Consideration is given to whether the citizen, for purposes of ensuring his/her living needs (living needs of dependent children) exercised his/her entitlement to sickness insurance (care) or pension insurance or to state welfare support benefits, with the exception of benefits provided on a one-time basis, or for food and contributions for food under the Act on the Family."

356. A citizen whose income is evaluated jointly with others (e.g. within a household) is provided one-time or monthly repeating benefits to supplement the income of all jointly evaluated persons. Basic benefits under the Act on Social Neediness are:

(a) Child maintenance benefit (section 5 of the Act on Social Neediness - a monthly benefit, to a maximum of the subsistence level, particularly when an obligated person does not fulfil the maintenance duty toward the child, so-called maintenance advancing);

(b) Social care benefits in extraordinary cases (section 8a of the cited Act);

(c) Other financial benefits, intended particularly for handicapped people.[215]

357. The following benefits and services are provided as part of social care under section 73 of the Social Security Act: financial benefits, material benefits, educational and consulting care, social law protection, employment rehabilitation, institutional social care, care in other social care facilities, home care services, meals, cultural and recreational care, special advantages for certain groups of severely handicapped citizens and interest-free loans. There is no legal entitlement to social care services. The entitlement to benefits and services is usually subject to a review of the applicant's or family's social neediness (social neediness is reviewed for purposes of payment for home care services).

358. Social services can be provided by non-governmental organizations and citizens, in addition to the State. The State can provide them with contributions towards costs of these services.

359. Social care benefits intended for one-time extraordinary expenses are provided optionally as one-time financial or material benefits. One-time benefits can be provided in an amount up to CK 15,000. Material benefits can be provided in an amount up to CK 8,000, in exceptional cases up to CK 15,000. In addition, the following benefits are provided: contribution for obtaining basic accessories for a child, contribution upon marriage of a child who lived in foster care, a financial contribution towards payment for the use of an apartment of an orphaned dependent child and a contribution for recreation for children of a pensioner. Families with children can also take advantage of the opportunity to take out an interest-free loan. However, they are not automatically entitled to the interest-free loan; it is provided by the district office depending on its financial possibilities and on whether the family will be able to repay the loan.

Expenditures on social care services (in millions of CK)

	1991	1995	1996	1997	1998
Total	1 351	4 112	4 171	5 188	6 644
Of that, care:					
for elderly persons	717	697	622	591	743
for disabled and the severely disabled persons	217	851	1 407	1 621	1 519
for families with children	390	1 853	1 388	1 604	2 317
for people excluded from the labour market	12	704	748	1 358	2 056
for persons not socially adapted	14	8	10	14	9
Home (community) care services	186	640	761	733	783
Institutional social care	1 852	4 703	5 252	5 479	5 998

Source: Ministry of Labour and Social Affairs; Statistical Yearbook of the CR, 1999.

360. The existing system of social care[216] is divided into social care benefits and social care services and addresses the situation of citizens who have found themselves in material need for various reasons, primarily those who meet the conditions set by the Act on Social Neediness. In situations where citizens do not meet these conditions, they can, under section 8a of the Act, be provided benefits and services to the extent necessary if they are in danger of serious injury to their health. A minor who does not have permanent residence in the Czech Republic may be provided benefits and services not only in case of danger of serious injury to his/her health, but also in situations when his/her proper upbringing is endangered.

361. The social care system needs to be transformed. In addressing material need, changes in the system should better differentiate the level and form of assistance according to the recipient's efforts to resolve his/her situation by his/her own actions, including use of assets. They should also introduce clear and enforceable requirements for the citizen to actively attempt to solve his/her social situation and cooperate with the appropriate office, but also simultaneously provide more advantageous conditions for a period when the recipient is provided for from other social protection systems (e.g. sickness insurance, unemployment support) but the benefits from those systems are not able to secure his/her living needs and the needs of his/her family on at least the subsistence level; it is also necessary to differentiate help according to the duration of the material need. In the case of social services it is necessary to develop a new type of service in parallel with a decrease in certain traditionally supported services. We consider deinstitutionalization both in the education of children and in social care provided to the handicapped to be very important. Support of individuals' and families' own abilities should be a basic principle.

Article 10

Paragraph 1

362. The foundation of protection and assistance for the family is article 32 of the Charter:

> "(1) Parenthood and the family are under the protection of the law. Special protection is guaranteed to children and juveniles.

"(2) Pregnant women are guaranteed special care, protection in labour relations, and suitable work conditions.

"(3) Children, whether born in or out of wedlock, enjoy equal rights.

"(4) It is the parents' right to care for and raise their children; children have the right to upbringing and care from their parents. Parental rights may be limited and minor children may be removed from their parents' custody against the latter's will only by the decision of a court on the basis of the law.

"(5) Parents who are raising children have the right to assistance from the State.

"(6) Detailed provisions shall be set by law."

363. In the Czech Republic the family is understood as a couple consisting of a woman and a man (usually married) and their children. Thus, family relationships mean parental and sibling relationships. However, some legal regulations (particularly concerning social security) use the concept of a household instead of the basic unit of a nuclear family (man, woman and children). A household is a group of people who live in one apartment and manage their home life together (a residential and economic unit). In the Czech Republic, a household is most often a nuclear family, but it can also include other people.

364. Protection of the family, and the rights and obligations of its members are governed by the Family Act and related regulations. The Family Act governs the formation of a marriage, relationships between spouses, divorce, relationships between parents and children, social-legal protection of children, determination of parenthood, adoption, trusteeship and guardianship and the maintenance duty. It guarantees that the choice of a life partner is a private matter and that marriage, whose main purpose is to establish a family and properly raise children, is concluded by fiances on the basis of the voluntary decision of both to create a harmonious, firm and permanent living unit. Polygamy is not permitted. Under the Family Act, fiances may conclude a civil or religious marriage.

365. The Family Act provides that marriage cannot be entered into by a minor, i.e. a person under the age of 18. Exceptionally, if it is in accordance with the social purpose of marriage, a court may, for serious reasons, permit a minor over 16 to marry. Without this permission the marriage is invalid. Marriage also cannot be entered into by a person deprived of legal capacity.

366. The equal legal status of spouses is expressed by, among other things, the institution of common property of spouses.[217] This property includes everything which was acquired by one of the spouses during the marriage, except things acquired by inheritance or gift and things which, by their nature, serve the personal needs or performance of the occupation of one of the spouses.

367. Spouses have equal rights and obligations within the marriage. Both spouses are required to care for meeting the family's needs, according to their abilities and opportunities. They decide jointly about family matters. The Act on the Family also establishes a joint support duty. The extent of the support duty is set so that the material and cultural level of both spouses will be basically equal.

368. Parents play a determining role in raising children, and both parents have parental rights and obligations. Parents are entitled and required to represent their minor children and manage their affairs. However, if the interest of the child so requires, a court may entrust a child to be raised by a person other than the parents.

369. The newly passed amendment to the Family Act of 1998 represents considerable changes to the previous situation. The amendment concerned particularly the legal regulation of relationships between spouses and divorce proceedings (sections 24 to 29 of the Act). The concept of parental responsibility was also expanded, and the legal regulation of adoption and guardianship was increased.

370. The amended Act newly governs divorce by mutual agreement of both spouses. The Act also states that a court may dissolve a marriage if the union is so deeply and permanently broken down that a renewal of spousal coexistence cannot be expected, taking into account the causes of the breakdown. The previous objective principle of divorce remains preserved in the general regulation of divorce, and there are only changes in formulation. Breakdown is defined as a deep and permanent incompatibility, when renewal of marital coexistence cannot be expected. The court is required to determine the objective situation, i.e. whether the breakdown really is deep and permanent.[218]

371. If the spouses have minor children, the marriage cannot be dissolved if this would be in conflict with interests of the children caused by special reasons. In contrast to the original wording of the Act, this increases the protection of minor children and preserves the continuity of joint decision-making about a child. The new regulation also permits the court, in cases whether there are grounds and conditions to do so, and when it is also in the interest of the child, to decide that the child will be raised alternately or jointly by both parents.

372. If a marriage lasted at least one year, the spouses have not lived together for at least six months and the second spouse joins in the divorce suit, the conditions for divorce are deemed to have been met. In that case the court does not determine the cause of the breakdown and dissolves the marriage upon the presentation of written agreements regulating the post-divorce settlement of property relationships, the rights and obligations with respect to the joint home and any support duty, and of a legally effective court decision approving an agreement on the care for minor children after the divorce. A new element, compared to the original Act, is the opportunity given to the spouses to comprehensively regulate the dissolution of the marriage and their future relationships by agreement, and thus limit the conflict situation between divorcing spouses as much as possible, particularly if they are also the parents of a minor child.

373. A marriage will not be dissolved if the other spouse does not agree to the divorce and did not contribute to the breakdown of the marriage by violating marital duties or if the divorce would cause him serious detriment, provided that extraordinary circumstances testify in favour of the marriage. Extraordinary circumstances include age, economic dependence or state of health. This regulation does not mean introducing the principle of fault, but it stands on the side of the spouse for whom dissolution of the marriage in the particular case would mean perceptible detriment.

374. There has not been time for the consequences of the amendment to the Family Act in connection with the divorce rate to appear fully in practice yet. The number of divorces is more or less stable, as is the fact that it is more often the woman who files for divorce. The proportion of divorces in marriages with underage children is decreasing.

Divorces

Year	Number of divorce suits	Divorces approved (in %)	Party filing suit		Dissolved marriages with underage children	
			Man	Woman	Total	% of total divorces
1994	38 614	80.1	12 321	26 267	22 289	72.0
1995	38 766	80.3	12 400	26 362	22 108	71.0
1996	40 451	81.9	13 201	27 249	23 438	70.8
1997	39 592	82.0	12 450	27 141	22 603	69.6
1998	39 616	81.7	12 405	27 211	21 636	66.9

375. The amendment to the Family Act also newly regulates the adoption of children. Adoption requires the consent of the biological parents. Consent is not necessary if the parents consistently did not show real interest in the child for a period of six months or did not show interest in the child for two months after its birth although no serious obstacle prevented them from doing so.

376. Care for families with children is also governed by regulations on social security, particularly the Social Security Act[219] and the Act on Jurisdiction of Authorities in the CR in Social Security.[220] Under section 74 of the Social Security Act, the appropriate State bodies provide social care benefits and services to secure the basic needs of dependent children, their parents, single mothers (fathers), women during pregnancy and other citizens. These bodies, in cooperation with other organizations, prepare children and youth through counselling and education activity for marriage and responsible parenthood, help create favourable relationships in families in danger of breakdown and contribute to overcoming the consequences of such breakdowns.

Welfare assistance to families with children (in millions of CK)

	1990	1995	1996	1997	1998
Direct financial assistance	17 360	29 662	32 260	33 481	34 348
of that: Children's allowance[a]	10 481	12 770	12 193	12 497	11 493
Maternity benefit	1 349	1 722	1 811	1 963	2 028
Parental benefit	1 504	5 824	7 357	7 612	7 781
Childbirth grant (support upon the birth of a child)[b]	258	428	484	525	563
Maternity and pregnancy compensation benefit	21	18	9	8	7
Caregiver benefit[c]	71	39	33	25	23
Child maintenance benefit[d]	55	58	37	40	54
Foster care allowance[e]	53	111	154	169	233
Social benefits to families with unprovided-for children and for pregnant women[f]	98	1 634	1 402	1 617	2 322
Family member care benefit[g]	730	894	927	864	766
Social Supplementary benefit[h]	2 340	6 029	6 243	6 224	6 273

Source: Statistical Yearbook of the CR, 1999.

[a] Including parental benefit for pensioners, until 1995, provided for all children of parents with sickness or pension insurance from birth until completing qualification for an occupation; the amount varied according to the child's age. As of 1 January 1996 the amount of the supplemental benefit depends on the age of the child and the family's income. Supplemental benefits are provided for children who live in families with an income lower than three times the subsistence level.

[b] Until 1 October 1995, contribution upon the birth of a child. A contribution to cover extraordinary expenses related to the birth of a child (four times the subsistence level for the personal needs of the child; the family's income is not reviewed).

[c] This benefit is an entitlement of a soldier's child, his wife, or another person to whom the soldier has, during the term of his basic (substitute) compulsory military service, civil service, or military training, an obligation to make support payments, regardless of the person's income. For a wife the entitlement is conditioned on her caring for a child up to the age of four (or a handicapped child up to the age of seven) or her handicapped status or another serious reason why she cannot work.

[d] Provided only to children for whom a maintenance duty is regulated by a court (so-called deposits for maintenance) to an extent corresponding to social neediness.

[e] Contribution to pay for the needs of the child, bonus for a foster parent, contribution when receiving a child into foster care, and a contribution for buying a motor vehicle.

[f] Paid if they find themselves below the subsistence level and cannot increase their income by their own activity.

[g] Provided to one of the parents when caring for a sick child, usually for a period of nine calendar days.

[h] Paid to families with low incomes as a contribution for expenses related to securing the needs of their children. The amount depends on the child's age and the family's income. A parent is entitled to a supplemental welfare benefit if he is caring for a child and the family's income is not over 1.6 times the subsistence level. Until 1996 the supplemental welfare benefit did not exist, but there was a variously modified State equalizing contribution.

Other forms of financial assistance to families with children set forth in the table are described in more detail in the text of the report, particularly relating to article 9 of the Covenant.

Paragraph 2

377. Labour law protection of pregnant women and mothers is contained in sections 153 to 161 of the Labour Code:

(a) Under section 153, "if a pregnant woman performs such type of work which pregnant women are prohibited from doing or which, according to a medical opinion, poses a hazard to her pregnancy,[221] the employer is obliged to reassign her temporarily to other work which is suitable for her and in which she will be able to attain the same level of earnings as she had when doing her former work. If a pregnant woman who works at night requests an assignment to day work, the employer is obliged to comply with her request". This provision also applies for mothers until the end of the ninth month after giving birth. If a woman has lower earnings in a job to which she was transferred otherwise than by her fault than in her original job, she is provided a contribution to balance out this difference under regulations on sickness insurance;[222]

(b) Under section 155 of the Labour Code, pregnant women and mothers caring for a child under the age of three enjoy increased protection from termination by notice from an employer;

(c) Under section 156 of the Code, an employer is required, when assigning employees to shifts, to take into account the needs of women caring for children. He is required to grant their requests for a shorter work time or otherwise appropriately adjust the set weekly work time, if serious operating reasons do not prevent it. The employer also may not employ pregnant women and women caring for children under the age of one in overtime work.

378. The current legal regulations contain certain elements of inequality in the status of male and female employees; this condition is to be corrected in the amendment being prepared to the Labour Code, under which an employee caring for children will be protected without regard to gender. In connection with the harmonization of the Czech Republic's legal system with Community law, the Czech Republic is incorporating in its labour law EC Council Directive No. 96/34/EEC concerning the framework agreement concluded between UNICEF,[223] CEEP[224]

and ETUC[225] on parental leave and EC Council Directive No. 92/85/EEC on implementation of measures to improve the provisions for and protection of the health at work of pregnant women, women after childbirth and nursing mothers.

379. Social protection of pregnant women and mothers is also contained in regulations on sickness insurance, social security and State welfare support. The extent and degree of measures for the protection of pregnant women and mothers have been stable for a long time and no changes to them are being considered.

380. Under section 157, paragraph 1, of the Labour Code, "a woman is entitled to 28 weeks of maternity leave in connection with childbirth and the care of her child who is already born; if a woman gives birth to two or more children at one time, or if a single woman is concerned, she is entitled to 37 weeks of maternity leave". In order to improve maternal care, under paragraph 2 of that section, the employer is obliged to grant a woman additional maternity leave, until her child reaches three years of age, if she asks for it. This leave shall be granted for the period of time requested by the mother.

381. During maternity leave and additional maternity leave, an employee is not entitled to wages. Material security during this period is governed by regulations on employee sickness insurance, which also stipulates in which cases, under what conditions and for what period one is entitled to material security during additional maternity leave (see also the text in article 9 of the Covenant).

382. A woman generally begins maternity leave at the beginning of the sixth week before the expected delivery date. Maternity leave in connection with birth may never be shorter than 14 weeks and may not, under any circumstances, end or be interrupted before the end of 6 weeks from the delivery date (section 159 of the Labour Code).

383. The last benefit increase of 1995, under the State Welfare Support Act,[226] concerned the State contribution intended for the parent who personally cares full-time for a small child (parental benefit) up to the age of four (or up to the age of seven, in the case of a child with a long-term disability or long-term illness) regardless of the parent's gender. The period during which this contribution can be provided, originally limited to the child's reaching the age of three, was extended by one year. This was a one-time measure, and its purpose was to maintain or support the existing population trend and lower tension in the labour market.[227]

384. The amount of the contribution is determined by section 7 of the Parental Benefit Act.[228] The contribution is always provided for a calendar month, is not subject to tax, and is not paid abroad. The original amount of the monthly contribution in 1990 was CK 900, and it was gradually increased by amendments to the parental benefit Act to CK 1,200 in 1992, CK 1,360 in 1993 and CK 1,500 as of 1994; as of 1995 the monthly contribution amount is CK 1,740. However, the parental benefit is relatively low in comparison with wages; its fixed amount is a maximum of 1.1 times the amount of the subsistence level for the personal needs of the parent caring for the child (roughly half of the average wage). If the recipient is entitled to the contribution for only part of a calendar month, the amount per calendar day is CK 58 (increased from the original CK 30 in 1990). In addition to full-time care, the entitlement to the contribution is also conditioned on permanent residence in the Czech Republic and the

requirement that the parent, during the period of caring for the child, not be entitled to wages, salary or work remuneration or other income from employment, and not draw material security benefits intended for job seekers. A parent is entitled to the contribution even if he is employed, if he is employed for a maximum of two hours a day or his/her net income from employment does not exceed the monthly subsistence level amount for the parent's personal needs. The income may be higher in the case of a single parent.

385. Universal access to health care in the Czech Republic is completely equal. However, within comprehensive health and social care for the family, children and women, increased attention is paid to women and children. Health care connected with pregnancy and childbirth and in the post-natal period is fully covered by public health insurance.

386. The right to freely decide on the number and timing of children is affected by the Abortion Act,[229] which is very liberal in terms of its accessibility. The fear of its opponents that it would lead to a radical growth in the number of induced abortions has not been confirmed in practice (see also the tables under article 12, paragraph 2 (a) of the Covenant).

387. At present, roughly 25 per cent of pregnant women are hospitalized for at least one week before giving birth, 43 per cent of pregnancies are listed as high risk by health care facilities, and 11 per cent of women have Caesarean sections. Deaths in childbirth have dropped below 10 per 100,000 live births, meeting the World Health Organization recommendations for the most developed countries (fewer than 15 women dying per 100,000 children born).

388. As part of the HIV/AIDS programme, physicians advise all pregnant women to have an HIV antibody test, on a voluntary basis and with protection of anonymity. In 1996, 85 per cent of all pregnant women took this opportunity. The HIV incidence rate is low, roughly 0.002 per cent. All HIV-positive mothers receive preventive AZT treatment. This care is fully paid from public health insurance funds.

Paragraph 3

389. Fulfilment of this article is described in detail in the Czech Republic's report on the International Convention on the Rights of the Child.[230] This Convention entered into force in 1991. The Czech Republic assumed the obligations arising from it, and under article 44 of the Convention presented an initial report on implementation of the Convention for the period 1993 to 1994 to the Committee for the Rights of the Child in 1996. The report was supplemented in 1997 by answers to supplemental questions from the Committee. On 10 October 1997, at its sixteenth session, the Committee conducted a final evaluation of the Czech Republic's report. At the beginning of 2000, the Czech Republic submitted a periodic report on implementation of the Convention on the Rights of the Child for the years 1995 to 1999, for the period of the full five years. The period 1995 to August 1997 is included in the report because information about that period, provided to the Committee in 1997, was merely responses to the Committee's questions, and therefore incomplete.

390. The Government of the Czech Republic, following the results of the World Summit for Children in 1990[231] and following the conference held in 1995 whose participants committed themselves to forming in each country an "Action Program for Young People to 2000 and

Onwards", in 1999 approved an important document on the Czech Republic's policy in relation to young people, the "Outline of State Policy on the Young Generation in the Czech Republic to the Year 2002".[232] In this document, the Government took responsibility for the healthy development of the young generation and the creation of conditions for it to have the widest possible participation in the social, political and economic life of the Czech Republic. The Government charged the ministers of the relevant ministries and the minister without portfolio to ensure the fulfilment of the tasks under the concept, to prepare ministry programmes related to the support and protection of children and young people and to allocate funds in their budgets for the implementation of these programmes.

391. On the basis of the Outline, the Government established a National Committee for Issues Concerning Children, Young People and the Family.[233] The Committee is responsible for preparing an outline of State policy on the young generation after 2002. Protection of the rights of the child is presently in the jurisdiction of the Commissioner for Human Rights.

392. In the meaning of the provisions of the Convention on the Rights of the Child, other international documents and the Charter, in July 1999 the Government discussed a draft Act on Social Legal Protection of Children.[234] The Act was passed and goes into effect on 1 April 2000. The purpose of this Act is to strengthen protection of the rights of the child and its status in relation to principles contained in international documents, particularly the Convention on the Rights of the Child, and to respond to new social threats to children through various negative influences such as expressions of violence against children, addictions, (alcoholism, drug addiction, gambling addiction), pornography and commercial sexual abuse.[235]

393. The Act defines the range of children to whom social legal protection bodies need to give special attention, and defines the tools by which the children are protected. The guiding principle is prevention, and one of the important tools in this effort is preventive and counselling activities. These activities are performed primarily by social departments, which are a component of district, city and Prague district offices. In the field of general prevention of socially pathological elements, this work is also done by social workers in the field (street workers).[236] The Ministry of Labour and Social Affairs provides funds to cooperating non-governmental non-profit organizations for these workers' wages.

394. The Act governs mutual cooperation not only by bodies for the social-legal protection of children, but also other entities which work in the field of care for children, such as schools, health care facilities and other similar facilities.

395. Clear rules have been defined for arranging adoption and foster care (organization, procedures, cooperation of various entities, counselling for alternative family care). The monitoring of the development of children in institutional care has been revised. The Act also governs assistance to children who do not have permanent or long-term residence in the Czech Republic and unaccompanied children present in a foreign country, within the meaning of European Union Council resolution of 26 June 1997 on unaccompanied juveniles who are citizens of third countries.

396. The Act also governs the establishment of social legal protection - facilities for specialized childcare counselling, social educational facilities, facilities for children needing immediate assistance, education recreational camps and facilities for foster care. The Act permits non-State entities to perform limited social legal protection, subject to certain conditions. However, activities which involve fundamental intervention into the status of a child or persons responsible for it are reserved for State bodies. The Act also amends other legal regulations, the most important of which is the amendment to the Offences Act,[237] which introduces new elements of offences and which should give children greater protection against cruelty, neglect and misuse for physical labour.

Employment of children and juveniles

397. The Labour Code[238] states in section 11 that the capacity of a natural person to have rights and obligations in labour-law relationships and the capacity to acquire these rights and assume obligations through one's own actions arises on the day when a natural person attains 15 years of age. An employer may not negotiate a starting date for work which would precede the day when such a person completes compulsory education. Compulsory education is set by law as lasting nine years. The capacity of a person who completes compulsory education in a remedial school before reaching the age of 15 is also set out. However, the capacity to acquire rights and assume obligations in labour-law relationships through one's own acts arises on the day of completing compulsory education, but no earlier than upon attaining 15 years of age.

398. The Labour Code governs conditions for employing juveniles (i.e. persons aged 15 to 18) in part three, in sections 163 to 168. The Labour Code also states that an employer is required to request the opinion of a minor employee's legal representative. An employer may not give juveniles overtime work or work at night. Exceptionally, juveniles over 16 can perform work at night for no more than one hour, if necessary for their occupational training. Juveniles may not be employed for work underground in mineral mining or digging tunnels and shafts. Juveniles also may not be employed for work which, with regard to their anatomical, physiological and psychological characteristics at that age, are disproportionate, dangerous, or damaging to their health.

399. The age restriction of 18 years also applies for negotiating a subsidiary employment relationship: under the Labour Code, this kind of employment relationship may not be entered into with a minor employee. The employee's age must also be taken into account in concluding agreements on work performed outside an employment relationship. These agreements can be concluded with juveniles only if they do not endanger their healthy development or occupational training.

400. Under section 150, paragraph 2, of the Labour Code and in agreement with the Ministry of Education, Youth and Sports, the Ministry of Health issued an implementing decree[239] to the Labour Code, which, under section 167, paragraph 2, sets out the work and workplaces which are forbidden to all women, pregnant women, mothers for nine months after giving birth and juveniles, and also sets out conditions under which juveniles may, exceptionally, perform these kinds of work for reasons of occupational preparation.

Protection of moral development

401. The Act on Radio and Television Broadcasting,[240] in section 5, charges all broadcasters not to schedule, between 6 a.m. and 10 p.m., programmes which could endanger the psychological or moral development of children and juveniles. In addition, section 6 charges broadcasters to see to it that advertising does not include advertisements aimed at children or in which children appear, if they promote behaviour which endangers their health or psychological or moral development. Access to appropriate information is also ensured by the Act on Certain Conditions for Production, Dissemination and Archiving of Audio-Visual Works.[241] Under section 4 of the Act, access to audio-visual works whose content could endanger the moral development of juveniles is restricted to those who have reached the age of 15 or 18.

402. The Act on Regulation of Advertising,[242] in section 2, prohibits advertisements aimed at persons under the age of 15 or in which persons under the age of 15 appear, if they encourage behaviour which endangers their health or psychological or moral development. Under section 3 of that Act, advertising tobacco products in television broadcasting is prohibited, and in radio broadcasting it may not be scheduled between 6 a.m. and 10 p.m., i.e. at a time when children and juveniles can be expected to listen. In addition, under the same section, advertising of tobacco products may not be aimed at juveniles, particularly through the use of elements, means or events which are primarily aimed at such persons, and they may not use juveniles. They also may not exhort people to smoke. Section 4 prohibits similar advertising for alcoholic beverages.

403. The Crimiral Code[243] protects children from pornography. Section 205, paragraph 2, of the Code (endangering morals) states that a person who:

(a) Offers, lends or makes available written, audio, video, or pictorial pornographic works to someone else under the age of 18 years; or

(b) Displays written, audio, video, or pictorial pornographic works at a place which is publicly accessible to persons under the age of 18 years, shall be punished by a term of imprisonment of up to one year, by a pecuniary penalty or forfeiture of a thing.

404. In practice these statutory provisions are circumvented. For example, pornographic magazines and publications are displayed for sale in street stands. This is pointed out particularly by teachers and social and health care workers, but inspection bodies have not yet paid appropriate attention to it.

Article 11

Paragraph 1

405. Chapter four of the Charter, which is devoted to economic, social and cultural rights, does not contain in any of its articles the right to an adequate standard of living, adequate food, clothing, housing and improvement of living conditions. The Charter indirectly guarantees the following rights:

> Article 26, paragraph 2: "Everybody has the right to acquire the means of his/her livelihood by work. The State shall provide an adequate level of material security to those citizens who are unable, through no fault of their own, to exercise this right; conditions shall be provided for by law."
>
> Article 30, paragraphs 1 and 2: "Citizens have the right to adequate material security in old age and during periods of work incapacity, as well as in the case of the loss of their provider. Everyone who suffers from material need has the right to such assistance as is necessary to ensure her a basic living standard."
>
> Article 31: "Everyone has the right to the protection of his/her health."
>
> Article 35: "Everyone has the right to a favourable environment."

The right to an adequate standard of living

406. Emphasis is laid on everyone's personal responsibility for him/herself and his/her family's standard of living, with the provision that the State is required to create adequate conditions for the opportunity to exercise this personal responsibility. If even these conditions are not enough to ensure an adequate standard of living usual in the country, the State assists an individual and his/her family through the social security system (see also the text on articles 9 and 10 of the Covenant).

407. The minimal, legally recognized limit of a citizen's income for ensuring sustenance, basic personal needs and necessary expenses for the household is the subsistence level which is considered the official poverty level. Information on households and their income and expenses is provided only by sample surveys. These also contain data on so-called "households with minimum income", which are households whose income did not exceed 1.4 times the subsistence level in families with children and 1.5 times the subsistence level in families of pensioners. These data can be used to determine the structure of expenses in poor households, but not the proportion of such households out of the total number of households in the Czech Republic (in 1996 the proportion of households whose net financial income was lower than 40 per cent of average working income per person was 2.1 per cent of total households).

408. In terms of the changes in the basic income parameters of households, 1998 was the worst year since the creation of the independent Czech Republic. Low income growth which lagged behind the growth of inflation, the growth of essential expenses (which cannot be influenced), uncertainty about further social and economic development and preferences for creating financial reserves, increasing unemployment and restriction of social transfers considerably reduced household demand and played a role in the decline in productivity of the national economy. In 1999 the situation began to improve, but the recorded real growth of total household income was strongly influenced by the increased purchasing power of their social incomes (adjusted subsistence level, pensions, increase in sickness benefits, increase in material security for job seekers, etc.), which is not a positive sign in terms of further economic growth. Low inflation also had a positive effect on the increase in real incomes.

Growth of consumer price indices for goods and services (average in 1990 = 100)

	Households				
	Total	Employees		Pensioners	
		Total	Low-income[a]	Total	Low-income[b]
1994	231.3	227.1	228.5	227.9	232.8
1995	252.5	247.5	250.9	251.6	257.2
1996	274.7	269.0	275.2	275.3	281.6
1997	297.9	291.3	300.0	302.6	309.8
1998	329.7	321.3	336.3	343.5	354.4

[a] In 1994, households with net money income per person in 1989 up to CK 1,400 per month; in 1995-1998, households whose net monthly income in 1993 did not exceed 1.2 times the subsistence level.

[b] In 1994, households with net money income per person in 1989 up to CK 1,200 per month; in 1995-1998, households whose net monthly income in 1993 did not exceed 1.2 times the minimum pension after adding the State balancing contribution.

Structure of money income and expenditure of households on minimum income in 1998 (per household member)

	Families	Two-parent families		Lone parent	Pensioners
		2 children	3 children		
Money income, total in CK	40 168	40 448	38 317	39 599	52 058
Including, in %:					
from employment	59.7	71.7	69.1	38.9	4.5
social income	33.0	25.6	29.0	45.1	94.8
other income	7.3	2.7	1.9	16.0	0.7
Deposits withdrawn in CK	9 088	8 885	8 184	8 980	4 059
Money expenditure, total	41 554	42 361	39 432	40 909	52 350
Including, in %:					
food	30.2	29.4	29.7	31.8	39.1
alcohol and tobacco	2.7	3.3	2.5	1.9	1.9
clothing and footwear	6.2	6.2	6.5	6.4	3.8
housing	19.0	16.7	16.0	24.8	28.7
household operation	6.0	6.2	6.1	5.3	6.2
personal and medical care	5.3	5.5	4.6	5.8	5.1
transport and communications	7.5	8.1	7.3	5.5	3.6
culture, education, sports	7.9	7.0	9.9	8.0	4.7
taxes, insurance, payments	15.2	17.6	17.4	10.5	6.9
Deposits in CK	7 644	6 841	6 866	7 731	3 434

Source: Statistical Yearbook of the CR1999.

409. The standard of living can also be measured by a household's ownership of items for long-term consumption.

Consumer durables in households

	Number of durables per 100 households				
	1990	1994	1995	1996	1997
Electric washing machine (incl. automatics and wringers)	156	159	159	158	159
Refrigerator (incl. freezers)	118	129	134	137	141
Radio set (incl. car radio receivers)	203	210	214	216	217
TV set	132	140	142	143	144
Telephone	-	35	38	47	59
Passenger car	62	64	65	67	68
Motorcycle	30	28	27	27	27

Source: The Czech Statistical Office, 1999.

410. The overall living standard of the population of the Czech Republic can be described as satisfactory, particularly in comparison with other countries which have been undergoing transformation since 1990, after political changes. The Czech Republic does not calculate an index of the physical quality of life, and is not presently constructing one.

The right to appropriate sustenance

411. The problem of hunger does not exist in the Czech Republic, rather the opposite, and positive changes in the structure of food consumption by the population of the CR need to be maintained.

412. Food consumption in the Czech Republic corresponds in amount and structure to the basic food groups of most European Union countries. Compared to the EU, there is overall high consumption of grains and above average consumption of eggs and pork. In contrast, the Czech Republic does not reach the European average in consumption of fresh fruit from the temperate zones, citrus fruit, vegetables, cheeses and poultry.

Consumption of selected kinds of foods

Kind of food	Unit	1992	1997	Index 97/92
Meat, total	kg	86.6	81.5	94.1
Fish, total	kg	4.6	5.5	119.6
Milk and milk products (except butter)	litre	208.0	189.5	91.1
Eggs	piece	328.0	311.0	94.8
Fats, total	kg	26.4	25.5	96.6
of that, edible vegetable fats and oils	kg	13.8	16.2	117.4
Refined sugar	kg	39.5	39.1	99.0
Grains, including rice	kg	117.2	107.9	92.1
Potatoes	kg	84.1	76.0	90.4
Vegetables	kg	69.7	81.1	116.4
Fruit, total	kg	69.5	71.5	102.9
of that, southern	kg	22.5	30.7	136.4
Alcoholic beverages, in pure alcohol value	litre	9.4	9.8	104.3
Non-alcoholic beverages	litre	11.3	147.0	132.1

Source: The Czech Statistical Office, 1999.

413. The results of a brief evaluation of the most important quantitative and qualitative changes in food consumption which have an important influence on the nutritional level of food consumed, comparing 1989 and 1997, are as follows:

(a) Consumption of southern food increased by 80 per cent, but consumption of food from the temperate zone decreased; consumption of poultry increased by 12 per cent, edible fats and oils by 30 per cent, vegetables by 17 per cent and legumes by 50 per cent;

(b) Consumption of butter declined by 55 per cent, milk products by 25 per cent, beef by 45 per cent; there were small declines in the consumption of sugar, grains, potatoes, fish, eggs and pork.

414. Through research institutes, the Ministry of Agriculture conducts framework evaluations of the extent to which recommended nutritional amounts are met, which confirm a positive change in the consumption of food and a change in the nutritional level of the CR population's food consumption. Compared to 1989, the total calorie value provided by food declined, as did intake of animal fats and proteins; intake of vegetable fats, proteins and vitamin C increased, although not to the recommended level. Inadequacies continue in the somewhat lower intake of certain B-group vitamins and calcium (decreased consumption of milk and milk products). Despite the positive changes, recommended amounts in the intake of calories, fats and animal products are exceeded.

415. Evaluating qualitative changes in nutrition in relation to quantitative changes in consumption of food is in the jurisdiction of the Ministry of Health, including education and recommendations for observing trends in healthy nutrition and proposals for measures to redress deficits. For this evaluation, the Ministry of Health sets recommended nutritional amounts per person per year. The Ministry of Health considers the stated changes in food consumption to be positive, as they correspond to its recommendations (particularly lower consumption of animal fats, increased consumption of fruits, vegetables, etc.).

416. On the basis of the Government's National Health Program,[244] since 1993 the Ministry of Health has announced an annual tender for projects to support health. A financial contribution is made for the implementation of selected projects. The thematic focus comes from the priorities of the Covenant and consists of 13 thematic areas.

417. One of the thematic areas is healthier eating. The Ministry supports projects aimed at promoting the main principles of healthy eating, a varied and balanced diet, and changes in eating habits. Prevention and intervention also include more intensive nutritional education, not only for the general public, but particularly for high-risk groups (pre-school and school-age children, juveniles, pregnant women and nursing mothers, etc.). From 1993 until 1996, 43 projects addressed this theme; the Ministry of Health spent almost 9 million crowns from its funds for them. In 1997, 16 projects received a total of CK 1,798,000. In 1998 the Ministry of Health accepted 16 projects for healthier eating, five projects for improving reproductive health and 10 projects to support health in schools. In 1999 the Ministry distributed CK 2,511,000 among 15 accepted projects.

The right to appropriate housing

418. In the census of 1991, 3,705,681 permanently occupied dwellings and 4,051,583 census households were found in the Czech Republic. This indicates that in 1991 about 343,000 households shared an apartment with another household (most often the parents' household); so-called "wanted cohabitation" represents roughly one third of them. The Ministry for Local Development estimates that of those households, roughly 300,000 would prefer independent living.

419. The concept of adequate or appropriate housing is not precisely defined in the Czech legal system; however, we can say that inappropriate housing which does not meet current cultural and social requirements is housing in an apartment without basic amenities (WC, bathroom) and with unsuitable heating. This includes apartments in category III and IV, set out in the Decree of the Ministry of Finance on Rent from a Dwelling and Payment for Services Provided with Use of a Dwelling.[245] From that perspective, the condition of the housing fund in the CR is good - the situation is on a level which corresponds to the developed European countries. Census data show that in 1991 only 6 per cent of the population in the CR lived in apartments of category III and IV, i.e. in apartments lacking suitable heating or basic amenities.

Overview of apartment equipment

Apartment equipment	Share of apartments thus equipped (%)	Share in cities over 100,000 inhabitants (%)
Gas from network	50.0	80.3
Plumbing in apartment	96.9	99.2
Flush toilet in apartment	91.5	96.0
Bathroom or shower	93.2	95.1
Central heating	59.0	65.1
Single-apartment central heating	18.6	11.2
Stove for burning fossil fuels	12.9	5.5
Connection to public sewer system	68.1	92.4

Source: Census of people, houses and apartments 1991.

420. Squatter colonies of buildings illegally used for housing appear rarely in the Czech Republic and their number is not known. Disputes with people who illegally occupy certain residential or non-residential buildings, long-term abandoned buildings, or apartments without a proper agreement for their use are resolved as civil-law relationships between the owner of the building or apartment and the illegal user.

421. According to estimates by non-governmental organizations, approximately 100,000 homeless people live in the Czech Republic. They include people who left social care institutions and those expelled from their families, but also people who abandoned their residences by their own decision. A large number of the homeless are dependent on the assistance of charitable organizations which establish shelters for them. This solution is inadequate in the long term, but so far there are few measures at the level of State administration which make it possible to help these population groups.

422. The institution of so-called welfare housing is not governed by the law in the Czech Republic. Housing is provided to socially weak citizens by municipalities, which are guided by regulations which they pass in the exercise of jurisdiction over their own bodies. Municipalities accept applications from citizens who are waiting for an apartment, i.e. applications to conclude a lease agreement for an apartment provided primarily for welfare reasons (with regulated rent). Applications are generally evaluated by special "housing" commissions in the municipal authorities, established for this purpose. The waiting period differs according to the place where the applicant has applied for an apartment and the urgency of individual cases. The number of applications for an apartment with low, controlled rent has always exceeded municipalities' abilities to satisfy them. Exceptionally, in urgent cases, municipalities also provide, under the amendment to the Civil Code of 1992,[246] assistance in arranging replacement apartments in cases where a landlord terminated an apartment lease with the consent of a court and the court determined that the tenant was entitled to a replacement apartment or housing.

423. Problems related to housing include the small number of "halfway houses" and insufficient facilities for social care in shelters. The clients of shelters are primarily people who do not have sufficient financial reserves or abilities to overcome serious life changes on their own - losing employment, tense relations in the family, e.g. during or after a divorce, etc. - and do not have an opportunity to respond to these situations in time by changing their housing. Shelters serve not only as temporary replacement housing, but also provide comprehensive social services, legal counselling, and support in handling demanding and complicated personal situations. However, placing a client in a shelter often only postpones solving his/her problem, because care in a shelter can only rarely be followed by housing of a more permanent nature.

424. Shelters are established by non-governmental non-profit organizations, churches and municipalities. Funds for operating shelters usually come from several sources (domestic and foreign): from the budget of the Ministry of Labour and Social Affairs, district offices and municipalities, foundations, and people's own resources (e.g. fees from clients). In 1992 the Association of Representatives of Shelter Operators was created. This civic association connects various kinds of shelters into a network, permits the exchange of information and experience, and creates prerequisites for coordination and for dealing with State and legislative bodies at the central and local levels and other institutions. It thus builds information connections which permit ongoing monitoring of not only the bed capacity of individual facilities and their occupancy rate, but also client turnover. In mid-1999, 59 shelters were members of the association. The shelters mostly house men (39 of them), 14 accept women, 23 provide shelter for mothers with children, and one can also house complete families (the number of shelters according to client structure is greater than 59 because some serve both sexes and some are for women and mothers with children).

425. "Halfway houses" are a special type of social service (so-called residential-type services for vulnerable groups). They serve clients who for various reasons, not only the impossibility of finding affordable housing, need to live for a certain time in protected conditions, and therefore also provide more long-term assistance with housing than the shelters are able to provide. "Halfway houses" are intended, for example, for young adults released from education facilities for institutional upbringing or protective custody after reaching the age of majority (18). At the end of the report period there were 13 such facilities in the Czech Republic and another four

were of a similar nature with similar activities; several others are to be completed and opened in 2000. The Ministry of Labour and Social Affairs financially supports their establishment and operation; social intervention services are among the Ministry's subsidy priorities.

426. The number of people whose housing expenses in relation to income exceed their ability to pay cannot be stated, as the proportion of housing expenses to household income which should not be exceeded is not set in the CR. Given the ongoing transformation process, it is still assumed that housing expenses disproportionately burden households with incomes under 1.6 times the subsistence level, so they are provided a housing subsidy by law.[247] In addition, households with incomes up to 1.6 the subsistence level are entitled to two other directed, individual welfare benefits: a contribution to compensate for an increase in rent,[248] which, however, is intended only for those who live in rent-controlled apartments, and a contribution to compensate for increase in the price of fuel,[249] which is given to households living in apartments with off-site heating. The maximum supportable proportion of housing expenses (or net rent) in relation to income will be set in the near future for purposes of a new directed, individual welfare benefit for this purpose, which will be introduced with the transfer to a new system of setting and adjusting rent.[250]

Housing fund structure - basic sectors

Housing sector	Share of housing market (%)
Private ownership	46.2
Rental	30.9
Cooperative	19.0
Other	3.9
Total	100.0

Source: Estimates of the Ministry for Local Development of the CR, 1999.

427. According to an estimate by the Ministry for Local Development, the distribution of households by housing type is virtually identical to the proportion of individual housing types in the housing market, i.e. to the structure of the housing stock shown in the table:

(a) The ownership sector consists primarily of family houses where the owners live; only a small part of the ownership sector (some 5 per cent), which is growing in the process of privatization of the housing stock, consists of individual apartments owned by the residents;

(b) Three quarters of the rental sector is the municipal housing stock, i.e. the former State housing stock. One quarter are rental apartment buildings owned by natural persons (primarily those who received them in restitution) and legal entities. However, owing to the incomplete deregulation of rent and the non-standard relationship of rights and obligations, to the detriment of house and apartment owners, the operation of individual parts of the rental sector is still distorted and does not correspond to standard operation of the so-called private and public rental sector;

(c) The cooperative sector consists primarily of apartments in building apartment cooperatives, created from 1960 to 1990; the sector is expanding with building tenant cooperatives newly established for the purpose of buying a building from a municipality.

Legal regulation of the right to housing

428. With the exception of article 11 of the Covenant, the right to housing is not explicitly defined in the Czech legal system, not even in the Charter. The Czech Republic understands the right to housing as a declaratory, non-entitlement right, expressing the commitment of the State to strive to ensure equal access for all people to a safe and secure place to live - a dwelling; not the right of everyone to require the State to provide the dwelling. The Government of the Czech Republic strives, through its housing policy, to improve the situation in the housing market and to attain a state of affairs in which everyone can arrange appropriate housing.

429. Article 12 of the Charter guarantees protection of privacy and inviolability of the home:

> "(1) A person's dwelling is inviolable. It may not be entered without the permission of the person living there.
>
> "(2) A dwelling may be searched only for the purposes of a criminal proceeding on the basis of a search warrant issued by a judge in writing and giving the reasons therefor. The manner in which a dwelling may be searched shall be set down in a law.
>
> "(3) Other encroachments upon the inviolability of a dwelling may be permitted by law only if such is necessary in a democratic society for the protection of the life or health of individuals, for the protection of the rights and freedoms of others, or in order to avert a serious threat to public security and order. If a dwelling is also used for a business enterprise or for carrying on other economic activities, the law may also permit such an encroachment if it is necessary to fulfil the duties of public administration."

430. The main legal regulations and their provisions applying to housing are:

Particularly sections 685 to 719 of the Civil Code;

The Act which amends, supplements and adjusts the Civil Code;[251]

The Act which Regulates Certain Co-ownership Rights to Buildings and Certain Ownership Rights to Dwellings and Non-residential Premises and Supplements Certain Acts (the Act on Dwelling Ownership);[252]

Particularly section 2 of the Act on Prices;[253]

Particularly sections 13 to 20 of the Act on Municipalities;[254]

Particularly sections 17 to 20 of the Act on the Capital City of Prague;[255]

The Decree of the Ministry of Finance on Rent From a Dwelling and Consideration for Services Provided with Use of a Dwelling;

The Decree of the Ministry of Finance on Rent from Dwellings Established in Cooperative Houses and Consideration for Services Provided with Use of These Dwellings;[256]

Particularly section 249a (Unauthorized violation of another's right to a house, dwelling or non-residential premises) and section 257 (Damaging another person's things) of the Criminal Code.[257]

431. These regulations also ensure protection of the citizen from eviction by force, from discrimination in access to housing, etc., whereby they also fulfil those parts of the right to housing which are of an enforceable nature. The CR thus fulfils the declaratory basis of the right to housing, and it does not consider it necessary or suitable to create in this matter obligations in the nature of an entitlement, fulfilment of which is problematic.

432. The legal regulation of the use, distribution, allocation, division, maximum prices and expropriation of land, including provisions on compensation, and the legal regulation of zoning, including proceedings with public participation, are contained in the following legal regulations:

Sections 108 to 116 of the Act on Zoning and the Building Code (the Building Act) and related and implementing regulations;[258]

The Act on Registration of Ownership and Other Substantive Rights to Real Estate and the implementing Decree to the Act;[259]

The Act on the Real Estate Register (the Real Estate Register Act);[260]

The Act on Transfers of State Ownership of Certain Things to Other Legal Entities or Natural Persons;[261]

The Act Regulating Ownership of Land and other Agricultural Property;[262]

The Act on Conditions for Transfer of State Property to Other Persons;[263]

The Act on the Transfer of Certain Things from the Ownership of the Czech Republic to the Ownership of Municipalities;[264]

The Act Regulating Ownership Relations and Settling Property Entitlements in Cooperatives;[265]

The Act on Property Assessment.[266]

433. The relationship between the owner of a house or apartment and the tenant, which is regulated in the Civil Code, provides the tenant with basic protection of his/her rights. A tenant can be evicted from his/her apartment only on the basis of a legally effective court decision.

Under section 711, paragraph 2, of the Civil Code, if the court approves the notice terminating the lease of an apartment (for reasons stated in section 711, paragraph 1, of the Code[267]), "it shall determine at the same time the date on which the lease relationship is to be terminated, taking into consideration the notice period. At the same time the court shall also decide that the lessee is obliged to remove his/her things from the apartment no later than 15 days following expiry of the notice period. If the lessee is entitled to a substitute apartment (or substitute accommodation), the court shall decide that the lessee is obliged to remove his/her things from the apartment within 15 days of provision of his/her substitute apartment and, should the provision of substitute accommodation be sufficient, within 15 days of provision of substitute accommodation".

434. The court must decide not only on eviction for reasons stated in section 711 of the Civil Code and provision of replacement housing, if applicable, but then also on the manner of eviction - it must issue an execution order. The manner of eviction or clearing out an apartment is regulated in the Civil Court Procedure Code.

435. The number of judicially evicted persons from 1993 to 1999 is not known. It can be said that this number is very low, in view of the complexity of the entire process connected to the act of eviction or clearing out an apartment, and in view of the expenses which the entitled person, the apartment owner, must generally pay. In practice, the process of legal eviction is used only in exceptional cases. If someone occupies an apartment illegally, he can be evicted without replacement housing, as he is not a tenant under the law.

436. The financial affordability of housing is assisted by certain measures contained in legal regulations governing the provision of various support and benefits, both in demand and supply. The most important ones are:

The State Social Care Support Act: housing contribution (sects. 24 to 26);[268]

The Act on a Welfare Contribution Compensating for Rent Increases and on Amendment of the State Social Care Support Act: social contribution compensating for rent increases (sects. 1 to 16);

The Act on a Welfare Contribution Compensating for Increases in the Price of Heating Fuel;

The Act on Income Taxes: decreasing the tax bases by interest paid in the tax period on a loan from building savings accounts or on a mortgage loan, provided and used to finance housing needs (sect. 15, para. 10);[269]

The Act on Building Savings Accounts and State Support of Building Savings Accounts;[270]

The Government Decree which Sets Conditions for State Financial Support for Mortgage Loans for House Building;[271]

The Government Decree on Providing Interest-free Loans for House Building.[272]

437. Regulation in the area of construction, from zoning plans and expropriation of land to regulation of construction processes, corresponds to conditions in European Union countries. The basic legal regulation in this area is the Act on Zoning and the Building Code (the Building Act).[273]

438. So far, no law in the Czech Republic directly restricts speculation in apartments or real estate. In the fight against speculation, only those means can be used which are provided by existing legal regulations. Insofar as speculation occurs, it is related to the transforming economy and inadequate legal regulation of the housing market.

439. Measures concerning environmental and health planning in housing construction and construction of housing estates are contained primarily in the Building Act and related decrees (on the bases for zoning and zoning documentation,[274] on general technical requirements for construction).[275] In connection with this, the Government, or the Ministry for Local Development, which has jurisdiction over housing, is preparing programmes whose purpose is to repair prefabricated apartment buildings on housing estates and the humanization of large housing estates. In order to start construction, an investor must, under the Act on Evaluating Effects on the Environment[276] obtain a positive statement in the specified manner from the body for environmental protection on the effects of the construction on the environment.

440. Non-governmental non-profit organizations can also build apartments and provide services related to housing. The support provided to these organizations by the State is not an entitlement; supporting funds of an investment and non-investment nature are provided in the form of grants for selected projects. In this manner, the State supports in particular housing for the handicapped and the elderly, i.e. housing connected to social services. In addition, the State also provides direct investment subsidies for construction of rental apartments and apartments with assisted living services intended for people with decreased self-sufficiency, especially elderly people; these subsidies are provided to municipalities, because the current legal system does not permit them to be provided, for example, to non-State organizations. The Ministry for Local Development is currently preparing an Act on Housing Societies, which will also permit providing such subsidies to non-State entities which work on the non-profit principle.

Numbers of dwellings completed in residential and non-residential buildings

Indicator	Completed dwellings			
	1995	1996	1997	1998
Total, including:	12 662	14 037	15 904	21 245
A. Buildings for housing, total	10 996	12 593	15 159	20 027
Including: in family houses	5 430	5 730	6 506	8 336
In residential buildings	3 583	4 080	4 578	6 827
Cooperative	1 176	352	131	138
Municipal	1 689	2 727	2 835	3 216
Other	718	1 001	1 612	3 473
In all types of extensions	1 983	2 783	4 075	4 864
B. In community care service homes	1 609	1 300	613	811
C. In non-residential buildings	57	144	132	407
In converted non-residential premises	336	445	853	938

Source: Statistical Yearbook of the CR, 1999.

441. Since 1995 a programme to support building of municipal (communal) rental dwellings has been in effect; the programme provides investment subsidies to a maximum of CK 320,000 per apartment and CK 50,000 for technical infrastructure for a dwelling. The subsidy is given to a municipality, which may associate with other investors on the construction. Apartments built this way are operated on a non-profit basis, i.e. they have regulated or expense-based rent. Since the beginning of the 1990s, investment subsidies have also been provided for construction of buildings with assisted living services (the programme to support construction of buildings with assisted living services - community care service homes). Investment subsidies to a maximum of CK 750,000 per apartment unit are provided to municipalities; with the aid of these subsidies, municipalities build small apartments for elderly people and other people with decreased self-sufficiency. The apartments are used on the basis of a lease agreement, have regulated, i.e. expense-based rent, and living in them is related to the provision of certain social services. These subsidy programmes will be adjusted under the Government's Outline for Housing Policy so that the subsidies can be given not only to municipalities, but also non-governmental non-profit organizations (see also above - preparation of the Act on Housing Societies); it is also expected that the stock of subsidized buildings intended for disadvantaged groups will be expanded; the aim is investment support for constructing protected buildings, replacement housing for households evicted for non-payment of rent, or "halfway houses"[277] (residence in them is for a limited time).

442. The Czech Republic has a category of special-purpose dwellings which are primarily barrier-free apartments accessible to people with limited mobility. Legal regulation of these apartments is found in section 9 of the Act, which, in 1992, supplemented and adjusted the Civil Code:[278] "... dwellings are specially adapted to house handicapped persons. If a specially designated dwelling was established from State funds or the state contributed to it, a lease contract can be concluded only at the recommendation of the district office, which shall request a statement from the Government Committee for the Handicapped before issuing a recommendation".

443. Dwellings in special-purpose buildings are, under section 10 of the same Act, apartments in buildings with assisted-living services and in buildings with comprehensive facilities for the handicapped. Lease agreements for these apartments are conditioned on the recommendation of the district office if the State contributed to their construction.

Housing support from the State budget
(in million CK)

	1993	1994	1995	1996	1997	1998	1999
Repairs to the housing stock	408	-	-	123	240	240	420
Construction of rental dwellings and technical infrastructure	-	-	1 400	2 180	2 698	2 891	3 480
Loans to municipalities for repairs and modernization of the housing stock	-	500	300	275	240	415	300
Construction of community care service homes	986	1 500	1 688	700	600	670	471

	1993	1994	1995	1996	1997	1998	1999
State interest-free loans	-	-	-	-	270	796	1 450
Support for mortgage loans	-	-	-	1	34	132	250
Support for building savings accounts	-	284	1 112	2 311	3 826	5 068	6 250
Welfare benefits tied to housing	-	200	200	677	929	1 367	2 067
Completion of financing for comprehensive house building	1 541	1 300	520	50	35	-	-
Subsidies for individual and cooperative house building	80	1 000	300	50	-	-	-
Completion of municipal dwellings	42	400	350	-	-	-	-
Total	3 057	5 184	5 870	6 367	8 872	11 579	14 688
GDP (billion CK)	1 002	1 143	1 339	1 525	1 680	1 821	1 868
% of GDP	0.30	0.45	0.44	0.42	0.53	0.64	0.79
State budget expenditure (million CK)	356 919	380 059	432 738	484 379	524 668	566 740	605 127
% of State budget expenditure	0.86	1.36	1.36	1.31	1.69	2.04	2.43

Source: Ministry for Local Development, 1999.

444. Measures for making available unused, little used and unsuitably used land parcels in the Czech Republic are a component of the Act on Conditions for Transfer of Agricultural and Forest Lands from State Ownership to Other Persons,[279] and the Act on Inheritance, Gift and Real Estate Transfer Tax.[280]

445. In the Czech Republic, housing is one of the areas which receive international aid funds. The aim of using international support is primarily development of urban areas and housing under local conditions, and housing support for vulnerable groups. Foreign support aimed at development of housing, or revival of cities, is used by individual municipalities according to their circumstances and needs. If support is aimed at disadvantaged groups, it is used primarily for construction of protected housing for the mentally handicapped and people with combined disabilities, for housing for seniors and other people with reduced self-sufficiency, for construction of housing for Roma, shelters and "halfway houses".

446. The ongoing social and economic transformation has also affected housing and the development of the housing market. The main reasons why it is still not possible in practice for everyone to find a place commensurate to his/her abilities and expended effort in the labour and housing markets are legal, economic and psychological.

447. A complete legal framework does not yet exist which would permit efficient operation of the housing market. The relative advantage of the apartment tenant over the owner continues, and enforceability of rights and the slow work of courts are problematic. From an economic viewpoint the problem lies particularly in across-the-board, non-systematic and, in many cases, unjustified rent,[281] applied in the majority of rental apartments (i.e. apartments owned by municipalities, the State and private owners), which reinforces certain undesirable inequities in the housing sector (both in terms of the rights to management and use, and in terms of housing expenses). The desirable operation of the housing market is also inhibited by the psychological heritage apparent in the attempt of many individuals and households to rely in arranging housing more on the State than on their own powers and the unwillingness to restructure household expenses to the benefit of housing at the expense of other needs. This includes the necessity of consciously separating expenses for housing (obtaining, maintenance, rent), for services for housing and for other products, particularly energy. Thus, the owners of real estate - residential houses with rent-controlled apartments, complain, particularly with reference to article 11, paragraph 4, of the Charter[282] and the Civil Code that their ownership rights are violated on a long-term basis, above all their rights to use, enjoy the products and profits of and to dispose of their property (section 123 of the Civil Code).

448. In October 1999 the Government adopted a new Outline of Housing Policy[283] and sent it for discussion to the Chamber of Deputies of the Parliament of the CR. The policy is primarily in response to the fact that measures taken in previous years, which were intended to help balance out the legal, economic and social deformation in the housing sector, were not sufficiently interconnected and that the supporting system did not work efficiently. In contrast to previous interventions, the Outline is also based on the fact that it is necessary to strengthen the social aspect of housing policy, and that the housing market needs to be understood as a market which is structurally and spatially differentiated, where across-the-board measures do not bring the desired results.

449. The Outline formulates the basic aim of the housing policy, which is to increase the overall accessibility of housing, primarily its affordability, in two ways: by strengthening the authority of the State (including improving legal, economic and other tools) with the simultaneous development of market principles and emphasis on people's individual responsibility for their own housing through targeted weakening of the deeply rooted paternalism. The newly formulated aims of housing policy are: stronger support for care for the existing housing stock and support for selected population groups who are disadvantaged in their access to housing. They also include decentralization of housing policy and a regional approach to handling specific problems. The Government's declaration of intent to adopt measures to strengthen development of rental housing and development of housing on the non-profit principle is significant.

Proportion of household financial expenditures from net financial income in the fourth quarter 1998 in per cent

(respondent sample of family budget statistics)

	Estimate for average household			Households with minimum incomes	
	Total	Employees	Farmers	Families	Pensioners
Food	25.3	23.6	25.0	34.8	40.7
Alcoholic beverages and tobacco	3.4	3.3	3.5	3.2	2.3
Clothing and footwear	8.9	9.2	9.8	8.9	4.6
Housing total	17.3	15.9	15.2	21.4	30.4
of that: rent	3.2	3.0	1.2	4.6	6.2
water and sewage	1.0	0.9	0.6	1.9	1.7
other, municipal services	0.6	0.6	0.2	0.9	1.3
electricity	3.2	2.7	4.3	5.4	5.8
gas	1.7	1.5	1.7	2.3	3.3
central heating, hot water	3.3	3.2	0.6	4.7	6.6
fuel	0.3	0.2	1.1	0.6	1.4
maintenance, building, purchase	4.0	3.8	5.5	1.0	4.2
Household equipment and operation	9.4	9.3	11.8	7.6	6.2
Personal and medical care	5.5	5.5	5.0	6.1	5.0
Transport and communications	9.8	10.2	13.7	8.1	3.8
Culture, education, sports, recreation	9.8	10.1	9.0	9.2	5.1
Payments of loans and other payments	8.9	8.4	9.8	7.2	9.3
Total, %	98.4	95.5	102.8	106.5	107.3

Source: The Czech Statistical Office, 1999.

Note: Average household expenditures are 98.4 per cent of average net incomes. Data above or below 100 per cent indicate the difference between cash at the beginning and end of the period, between deposits made and deposits withdrawn and between in-kind income and expenses.

450. The possibilities for housing development, especially its affordability, are limited by the ongoing deregulation of energy prices, which is a significant burden on family budgets. Energy accessibility in terms of production capacity and the distribution network is not a problem in the

Czech Republic, but the situation with respect to prices is quite different. Removing regulation and balancing prices for households and industrial companies is being done gradually, in view of the social situation of households.

451. In 1997 there were a total of 353,870 fully electrified residential subscribers in the Czech Republic, whose consumption reached 24.4 per cent of all consumption from the grids.

452. The Czech Republic has only minimal sources of natural gas (about 1 per cent of annual consumption) and is forced to buy it from abroad. The price for subscribing households is also still regulated and does not correspond to expenses for obtaining, transporting, storing and distributing gas. Correction of these deformed prices is a component of energy policy.

453. In 1999 the Ministry of Industry and Trade prepared for government discussion an amendment to the Energy Act,[284] which will newly regulate the electric energy and gas industries in relation to European Union directives; the Ministry is also completing an outline for privatization of distribution companies and brown coal mining companies. Both should lead to a decrease in prices as a result of competition, and thus ensure energy price stability in the long run.

Paragraph 2 (a)

454. In accordance with the jurisdiction of the Ministry of Agriculture, the outline of agricultural policy[285] set the basic dimensions of agricultural production with the aim of ensuring maximum self-sufficiency in production of agricultural raw materials and production of foods and ensuring the necessary quality.

455. Every year since 1995, the Ministry of Agriculture has prepared, for the Government and the public, a report on the State of Czech agriculture (the so-called Green Report), in which it publishes the results of its analysis of food consumption patterns, evaluates circumstance which influences consumption, and provides a prognosis for food consumption patterns and thus also society-wide demand in relation to agricultural production and the processing industry.

The status of ecological farming in the Czech Republic

456. The foundation for healthier eating by the population is improving the quality of food. This is also served by the development of agricultural production that respects natural processes and limits the amount of harmful materials contained in foods (from fertilizers, genetic modification, feed for farm animals, etc.). In the Czech Republic, ecological agriculture dates from 1990, when the foundations for the entire system were laid with the cooperation of the Ministry of Agriculture and the non-profit non-governmental associations Libera and the Pro-Bio association (bringing together ecological farmers).

Ecological farming

Year	Number of ecological farmers	Ecological farms (in hectares)	Ecological farms as % of total agricultural land
1990	3	480	-
1991	132	17 507	0.41
1992	135	15 371	0.36
1993	141	15 667	0.37
1994	187	15 818	0.37
1995	181	14 982	0.35
1996	182	17 022	0.40
1997	211	20 238	0.47
1998	340	71 620	1.67

Source: Ministry of Agriculture of the CR.

457. In 1998 ecologically farmed land had the following structure: arable land 100,473 ha, permanent grassland 60,924 ha, orchards 356 ha, vineyards 25 ha, ponds 24 ha and other 245 ha. In the same year, 326 monitored entities conducted ecological farming in the Czech Republic. In 239 cases they were private farmers, then 20 agricultural cooperatives, 4 school entities and 59 other companies (corporations, limited liability companies or general partnerships). In connection with this production, there were 12 processors, 2 trade entities, and 2 manufacturers of auxiliary materials.

458. The Pro-Bio association union brought together 360 members in 1998, including 270 producers with a certified area of 52,505 ha. The Libera association had 38 entities with a certified area of 19,000 ha. These associations provide eco-farmers education and advice, both in starting their activities and in arranging distribution and sales of bio-products, and they promote the interests of eco-farmers in contacts with State organizations.

459. The State supports ecological farming through Ministry of Agriculture programmes. In 1998 and 1999, under government decrees, programmes of non-production agricultural functions were started[286] to, among other things, support ecological farming, in the form of a financial contribution to compensate for losses arising as a result of farming in an ecological manner. These decrees provided for support to ecological farms in areas with an average land price of CK 4.01 per square metre and higher, and in areas which are less favourable for farming.

460. On the basis of these support programmes, the State provides financial support to natural persons and legal entities who manage (farm):

(a) Agricultural land with a minimum size of 5 ha;

(b) Specially protected areas with a minimum size of 2 ha;

(c) Ecologically, on arable land, hops farms, vineyards, gardens and fruit orchards of at least 1 ha.

461. The criteria for providing support for an applicant who farms ecologically on arable land with an average price of CK 4.01 per square metre and higher and in less favourable areas are the general requirements for all the programmes, plus a requirement that:

(a) The applicant maintains the entire agricultural land in proper condition under special legal regulations;

(b) The applicant is not on a list prepared by the appropriate district office of applicants who have unfulfilled obligations in the environmental field;

(c) The applicant did not apply for other support for the same purpose and the same land in the same year.

In addition, for ecological farmers, there is a requirement that:

(d) The applicant is on a list of farmers who farm in a particularly conservationist manner and protect all elements of the environment.

462. The criteria for providing support for an applicant who farms ecologically on arable land with an average price of CK 4.01 per square metre and higher and in less favourable areas on permanent grasslands are:

(a) Ecological breeding of farm animals at an average rate equivalent to at least 0.1 of a large animal unit (e.g. herd);

(b) The applicant must be on a list of farmers who farm in a particularly conservationist manner and protect all elements of the environment.

463. Ecological farmers at present farm under principles contained in the Method instruction for ecological farming, an internal regulation of the Ministry of Agriculture which reflects the main principles contained in EEC Council Directive No. 2092/91 on ecological farming and corresponding methods of identifying agricultural products and foods, which has been in effect for European Community countries since 1991 and is conceived as a framework law for ecological farming. It is also in accordance with IFOAM (International Federation of Organic Agricultural Movements) principles.

464. The Ministry of Agriculture is currently preparing an Act on Ecological Farming which is to go into effect in 2000. This act will set comprehensive conditions for ecological farming.

465. A farmer registered in the ecological farming system is inspected by an authorized inspection organization (authorised by the Ministry of Agriculture) to see whether he follows the principles of ecological farming, and receives a certificate upon positive inspection results. All such certified farmers are included each year in a list of producers, processors and traders of natural products in the Czech Republic, which is important when filing an application for financial support for ecological farming and for public information.

Paragraph 2 (b)

466. The Czech Republic is a food importing country. It emphasizes the problem of ensuring fair distribution of world food supplies in multilateral negotiations on trade liberalization in the World Trade Organization[287] and also in negotiating bilateral trade policy regimes with other countries. In addition, in relationships with the least developed and developing countries, it unilaterally provides these countries appropriate treatment within the framework of the General System of Preferences.

467. Assistance to areas endangered by lack of food is also given through financial, bilateral and multilateral aid (through voluntary contributions to the United Nations and the International Monetary Fund). The CR approved developmental aid for 1998 of CK 326 million and humanitarian aid of CK 30 million from the State budget,[288] which was used for purposes determined ad hoc according to urgency and in accordance with the Principles for Providing Foreign Aid.[289]

468. In terms of the Czech Republic's aid being used to ensure fair distribution of world food supplies, in the future the CR's membership in the European Union and participation in Union aid programmes will be important. Preparations have started to assume a trade regime with developing countries. The Czech Republic will take part in financing the European Development Fund as soon as it enters the Union.

469. In 1997 Act on Food and Tobacco Products[290] went into effect. This Act placed obligations on businesses producing, distributing, labelling, packaging and transporting foods and tobacco products. The Act also governed State supervision of observance of the obligations under the Act and sanctions for violations. Implementing regulations were issued to the Act, divided by food groups. The Ministry of Health simultaneously issued the appropriate related decrees. The purpose of the Act and the implementing decrees is for the consumer to receive non-harmful foods which meet the specified quality parameters. The Act and individual implementing decrees are harmonized to the maximum extent with European Union regulations in the technical area, particularly in setting chemical and physical quality parameters.

Article 12

Paragraph 1

470. Article 31 of the Charter reads: "Everyone has the right to the protection of his/her health. Citizens have the right, on the basis of public insurance, to free medical care and to medical aids under conditions provided for by law."

471. The state of health of the population of the Czech Republic is considerably influenced by age structure. Natural population growth is negative, and the population is ageing. The total standardized death rate has been declining since 1990, more among men than women. At present, the number of deaths per thousand inhabitants is 10.6: for men, 12.5 and for women, 7.4. Infant deaths are also declining. The life expectancy at birth is rising, but it is still lower than the lowest value in European Union countries 85 per cent of deaths are ascribed to

diseases of the circulatory system, tumours, injuries and poisoning. While mortality from diseases of the circulatory system is declining, especially among men, the mortality for neoplasm is stable to increasing.

472. Despite the decline in deaths from cardiovascular diseases, these diseases remain the main cause of death (56.2 per cent). The second most frequent cause of death is neoplasm (24.8 per cent). Despite stabilization of the mortality figures, the incidence of these diseases is increasing (by roughly 2 per cent annually) and so is their prevalence in the population (in 1997, 52,304 new cases of malignant neoplasm were reported to the National Oncology register of the Czech Republic). The third most frequent cause of death is injuries and other external causes, which are about 8 per cent of total deaths and are not yet declining. The increase in diabetes remains a serious problem. The increase in 1997 was 3 per cent over the previous year.

473. Statistics on incapacity to work show a mild decline since 1990, but the average duration of incapacity to work is extending, to 25.5 days for men and 27.2 days for women in 1997 (calendar, not business days). Socio-economic influences have a significant effect on the duration and frequency of incapacity to work.

Incapacity to work due to disease and injury

	1990	1995	1996	1997	1998
New cases of incapacity to work per 100 health insured	95.3	91.9	85.8	86.7	79.2
Average duration of one case of incapacity to work (calendar days)	18.4	24.4	25.8	26.3	26.8
Average percentage of incapacity to work per year	4.8	6.2	6.0	6.3	5.8

Source: Statistical Yearbook of the CR, 1999.

474. The health of the population is also a result of poor nutrition - excessive calorie intake, a predominance of animal fats, simple sugars and salt and insufficient consumption of roughage, vegetables and fruit, even though in recent years the structure of food consumption has changed positively. Nonetheless, the population's body mass, defined by the body mass index, reflects numbers which indicate overweight to obesity in men aged 45 to 64 and in women aged 55 to 74. This fact is also related to the low level of physical activity. Women regularly engage in sports less than men: 60 per cent of men and 80 per cent of women do not devote even one day a week to physical activity. The intensity of physical activity is indirectly proportional to education level.

475. Alcohol consumption per capita in litres of pure alcohol is increasing. Men consume more alcohol (18.2 litres in 1995 per male person); 70 per cent of them can be classified as regular alcohol consumers. Excessive consumption (264 g and more for men and 180 g and more for women per week according to WHO criteria) was found in 16 per cent of men and 2 per cent of women. The alcohol consumption level in men is indirectly proportional to their education; this relationship is not apparent among women. The Czech Republic also saw unfavourable developments in the consumption of non-alcoholic drugs, particularly among

young people reaching maturity. In 1996, young people up to the age of 19 were more than one third of patients treated in ambulatory treatment facilities for disorders caused by use of these substances.

**Growth in alcohol consumption per capita
(in litres of pure ethanol - 100 per cent)**

	1990	1994	1995	1996	1997
Alcoholic beverages total	8.9	9.4	9.4	9.5	9.8
Spirits (40%)	7.2	7.9	7.9	8.0	8.3
Beer	155.2	156.7	156.9	157.3	161.4
Wine	14.8	15.4	15.4	15.8	15.9

476. Smoking is widespread in the population. Surveys conducted by the Institute of Health Information and Statistics in 1993 found that 32.3 per cent of men were regular smokers and 21.3 per cent of women, with the highest rates in the 35 to 44 age category in both sexes. The situation is better than in the 1980s, but it is not satisfactory, as smoking is a significant cause of premature illness and death. There are more smokers among people with lower education and in lower-status social groups.

477. One of the factors which increase the risk of chronic disease is stress. The intensity and extent of causes of stress rose sharply after 1990.

478. The controlling factors in the health of the population in the Czech Republic thus are:

(a) Lifestyle. Important elements of lifestyle which are harmful to health are smoking, disproportionate by energy value and improperly structured nutrition, low physical activity, excessive mental burdens, damaging use of and dependence on alcohol and non-alcoholic drugs, and unsuitable sexual behaviour. These elements affect health up to 60 per cent. While the situation is improving in nutrition, the level of risk is not declining in the other items;

(b) Degradation of the living and working environment influences health by roughly 20 per cent. The quality of the environment is slowly improving in the Czech Republic, but the incidence of long-term consequences of pollution is not declining yet, particularly the incidence of acute and chronic respiratory illnesses and allergies and certain kinds of tumours.

(c) The level of health care affects the health of the Czech Republic's population by roughly 20 per cent.

479. While the health of the rural and urban population in the Czech Republic does not fundamentally differ, the Romani population has a differing incidence and prevalence of disease. This group is not tracked separately in statistical research on the health of the population; the foregoing statement is based on selected findings and the experience of physicians and health inspectors. The health of the Romani population, particularly the higher level of child illness and a lower life expectancy, is related to the different lifestyle, including eating habits, and often unsatisfactory material conditions in which some Roma and their families live.

480. The Action Plan for Health and the Environment of the Czech Republic[291] and the National Health Program[292] are the foundation of health policy in the Czech Republic, and ensure specialized guidance for healthy living conditions and protection and support of health. The previous document, the National Program of Renewal and Support of Health, was approved by the Government of the Czech Republic as early as 1991.[293] In 1992 it was followed by the Project for Medium-Term Strategy for Renewal and Support of Health,[294] which set the aims of health policy for the next three years and the task of preparing a long-term strategy: the National Health Program. This project is a national variation on the regional strategy of the World Health Organization,[295] Health for All by the Year 2000.

481. The main task of the National Health Program is support for implementation of health support projects:

- To systematically and fully inform all citizens about the influence of their actions and behaviour on health;
- To educate the population to take an active approach to its own health and to support responsibility for it;
- To improve the structure of food consumption;
- To decrease alcohol consumption;
- To increase the level of physical activity in the population;
- To decrease the incidence of smoking, particularly among young people;
- To decrease demand for drugs and the number of addicts;
- To limit situations which create stress and to teach stress management;
- To expand planning parenthood and use of suitable forms of contraception.

482. The Czech Republic is a party to the Convention on the Elaboration of a European Pharmacopoeia (Council of Europe), as amended by the Protocol to it. Since 1998, the Czech Republic is also a party to the Convention on Human Rights and Biomedicine together with the Additional Protocol to the Convention for the Protection of Human Rights and Dignity of the Human Being with Regard to the Application of Biology and Medicine, on the Prohibition of Cloning Human Beings. In connection with this, it is necessary to harmonize domestic legal regulations with the protocol. Since its creation, the Czech Republic, as a successor State of the CSFR, is a member of the World Health Organization and regularly contributes to its budget, on the basis of two-year agreements on cooperation. In 1999, projects of the EUROHEALTH 98/99 programme were completed and work began on projects under the umbrella of the new WHO programme, "Heal.h 21 - 21 aims for the 21st century".

Basic health care and its financing

483. The provision and financing of basic health care are governed by the Act on Public Health.[296] In the first quarter of 2000, under the plan of the Government's legislative tasks, the Minister of Health will submit a new, comprehensive Act on Health Care, which is to go into effect in January 2001.

484. Health care is paid primarily through health insurance companies. The insurance companies pay for the care provided on the basis of agreements concluded with health-care operators. In case of necessary and urgent care, health-care facilities must provide care to everyone. There are 10 health insurance companies in the Czech Republic. The largest of them, General Health Insurance Company (Všeobecná zdravotní pojišťovna) insures roughly 75 per cent of all insured persons.

485. Health-care benefits are benefits provided to insured persons, defined, under section 2 of the Act on Public Health Insurance,[297] as persons with permanent residence in the Czech Republic or employed by an organization with its registered address in the Czech Republic, to an extent specified by the Act. Health care (as a benefit) is not paid from the funds of the Ministry of Health section of the State budget. The Ministry pays from its budget for certain activities to which health insurance does not apply and for certain other activities which create conditions for providing health-care (administrative and service activities), but primarily supports investment construction for health-care facilities where the State is the founder, both at the central and local level. Expenses for health care provided to foreigners from countries with which the Czech Republic has concluded an agreement on cost-free provision of health care are also paid from the State budget, through the Ministry of Health. The percentage of these expenses of total expenses in health care in 1998 was 5.9 per cent.

486. The source of payments for health care are payments for general health insurance in an amount specified by the Act on Premiums for General Health Care.[298] Payers of health-care premiums are the insured persons (employees, self-employed persons, and persons with permanent residence in the Czech Republic, for whom the State is not the premium payer), employers (for their employees) and the State. The assessment base for premium amounts, under the cited Act (sect. 3a-c), is:

(a) The sum of income from all sources, with the exception of excluded income, for an employee in an employment relationship; the minimum calculation base is the minimum wage (defined on a monthly basis);

(b) 35 per cent of income from business or other independent self-employment, after deduction of expenses incurred to attain, secure and maintain it, for a person independently self-employed; the minimum calculation base is the minimum wage (or 12 times that for annual accounting) and the maximum calculation base is CK 486,000 (in a calendar year);

(c) CK 2,900 for a person for whom the premium payer is the State;

(d) The minimum wage for a person who does not have income from employment or from independent self-employment and for whom the State is not the premium payer.

487. In addition, an employer remits to the health insurance company account the part of the premium which it is required to pay for its employees. In practice, the manner of calculating the premium amount and the difference in the defined calculation bases lead to the fact that employees remit higher amounts (including the premiums paid by their employers) on average than self-employed persons, even though employees have, on average, lower real personal income and a lower standard of living.

488. The State is the payer of health insurance from the State budget under section 7 of the Act on Public Health Insurance, for dependent children, persons drawing pensions from pension insurance, recipients of parental benefits, women on maternity and additional maternity leave, job seekers, persons drawing welfare benefits for reasons of social neediness, persons completely or predominantly incapacitated and persons caring for them, persons performing basic service in the military forces, persons in detention or serving a prison sentence and juveniles placed in school facilities for institutional upbringing or protective custody. This is the most important interconnection of State expenses with the general health insurance system. After redistribution of selected insurance premiums, individual health insurance companies (which are public law institutions) pay health facilities for the care provided to their insured parties, to the extent and under conditions specified by the Act on Public Health Insurance.

489. Public health insurance is compulsory for all persons defined in the Act on Public Health Insurance. Under section 2, paragraph 5, of this Act, health insurance "does not cover those persons who do not have permanent residence in the Czech Republic, and work in the Czech Republic for employers who enjoy diplomatic advantages and immunities, or for employers in a labour law relationship concluded under foreign legal regulations or for employers who do not have their registered address in the Czech Republic and persons who reside long-term abroad and do not pay insurance premiums" (in accordance with conditions specified by the Act). Persons who do not meet the conditions of participation in public health insurance specified by the Act, but have long-term or permanent residence in the Czech Republic and want to have health insurance, may conclude a health insurance agreement with a selected health insurance company.

490. For purposes of preventing occupational illness, work injuries and illnesses caused and worsened by the influence of work and working conditions, all employers are required to provide company preventive care for their employees, an integral component of which are preventive examinations with the purpose of evaluating capacity for work. The Labour Code and the Act on Public Health provide that employers are responsible for seeing to it that work is performed only by employees who are medically capable of doing it.

491. Provision of health care is based on the principle of equality, which means that no measures or legislative provisions disadvantage elderly citizens or other population groups in the provision of health care. Health care for pensioners is paid from the State budget. One of the problems for this population group is increasing co-payments for medicines (however, the principle is still observed that at least one basic, absolutely necessary medical preparation for particular symptoms is fully paid by the health insurance company).

Expenditure on health service

	1993	1994	1995	1996	1997	1998
Public expenditures, total (billion CK)	69.3	81.1	93.3	102.4	108.9	113.6
Ratio of public expenditures to GDP (%)	6.9	7.1	6.9	6.7	6.7	6.6
Total expenditures for health care						
In billion CK[a]	73.5	89.6	102.4	112.4	121.5	132.3
Per capita in CK	7 112	8 671	9 922	10 903	11 797	12 857
Including (in billion CK):						
Direct private expenditures of inhabitants for health-care	3.8	5.4	7.4	8.3	9.9	10.6
Direct expenditures from the State budget	7.5	8.7	9.6	7.2	7.5	7.8
Expenditures from local budgets	6.4	6.1	7.3	6.5	5.9	5.8
Expenditures in the health insurance company system	55.8	69.4	78.1	90.1	97.3	107.5
Proportion of total expenditures to GDP (%)	7.3	7.6	7.4	7.1	7.2	7.3

Source: Ministry of Finance of the CR.

[a] Direct expenditures from the State budget, net of State budget expenditures to health insurance companies and to other public budgets + expenditures from local budgets + expenditures in the health insurance company system + purchase of receivables of health-care facilities + cash payments by citizens (co-payments).

Protection of mental health in radio and television broadcasting and in advertising

492. The Act on Radio and Television Broadcasting,[299] in section 5, charges all broadcasters not to schedule, between 6 a.m. and 10 p.m. programmes which could endanger the psychological or moral development of children and juveniles. Section 4 of the Act charges broadcasters to provide objective and balanced information necessary for the free formation of opinions. Section 5 imposes on broadcasters the duty to ensure that broadcast programmes do not contain subliminal messages. Sections 6 to 8 of the Act regulate obligations in broadcasting advertising and sponsored programmes:

(a) Broadcasters must see to it that broadcasting of advertisements does not include advertisements that support behaviour which endangers morals, consumer interests or interests of protecting health, mental or moral. Advertisements intended for children, or in which children appear, are prohibited if they support behaviour that endangers health, mental or moral development;

(b) Advertisements must be distinguishable and clearly separated from other programmes;

(c) Broadcasters are required to ensure that a party ordering an advertisement may not in any way exercise influence on the contents of programmes or on its programme service structure. The duration of advertisements and their placement in programmes are precisely defined by the Act.

493. The Advertising Regulation Act [300] forbids advertising based on subliminal human perception, advertising for medications and health-care equipment which are not registered or approved in the CR or which require a doctor's prescription, or medications containing narcotic, psychotropic and other addictive substances; advertising also may not contain data leading to an erroneous evaluation of one's own state of health, etc.

494. The Advertising Regulation Act separately regulates advertising for tobacco products. Under section 3 of this Act, advertising for tobacco products may not be aimed at juveniles and may not exhort anyone to smoke. In addition, an advertisement must contain clear text which warns against the health consequences of smoking. Tobacco products advertising may not be scheduled in television and radio broadcasting between 6 a.m. and 10 p.m. Section 4 of the Advertising Regulation Act also restricts advertising for alcoholic beverages: it may not be aimed at under-aged persons and may not exhort anyone to immoderate or otherwise harmful use of alcoholic beverages.

Paragraph 2 (a)

495. A negative demographic trend in the Czech Republic is apparent in the declining birth rate (live births). In 1996 the number of deaths exceeded the number of births, and the natural decline in population is not being balanced by immigration. A positive change is that infant and neonatal mortality is declining: in 1998 it fell to half of mortality in 1992. Another positive element is the continuing decline of induced abortion of pregnancy, even though it can be assumed to be related to the decline in the birth rate and in recorded pregnancies (see below).

Births

Year	Births total	Births		Births	
		Live	Still	Legitimate	Illegitimate
1994	106 915	106 579	336	91 345	15 570
1995	96 397	96 097	300	81 384	15 013
1996	90 763	90 446	317	75 396	15 367
1997	90 930	90 657	273	74 736	16 194
1998	90 829	90 535	294	73 545	17 284

Source: The Czech Statistical Office, 1999.

496. The second sentence of article 6, paragraph 1, of the Charter reads: "Human life is worthy of protection even before birth." This sentence expresses a moral, not a legal quality. It does not solve the problem of prohibiting induced abortions, i.e. the problem of whether there is a legitimate right to decide on the part of the doctor, the State, the mother, the father, both potential parents, or no one. Conditions under which induced abortion of pregnancy is possible are provided in the Abortion Act and the related decree of the Ministry of Health, which implements the Act.[301]

497. Under section 4 of Abortion Act, "a woman's pregnancy is aborted if she so requests in writing, if the pregnancy has not passed twelve weeks, and if other health reasons do not prevent it." Under section 5 of the Act, it is also permissible to "abort a pregnancy for health reasons, with her consent [or] at her instigation, if her life or health or the healthy development of the foetus are endangered, or if the foetus has a genetic defect." Pregnancy may be aborted for a woman who has not reached the age of 16 only with the consent of her legal representative; if pregnancy is interrupted for a woman between 16 and 18 years of age, the health facility shall inform her legal representative.

498. The decline in the number of induced abortions has also been made possible by availability of modern, effective and safe means of contraception. In 1992 to 1997 the ratio of registered women of fertile age using some sort of contraception under the supervision of a doctor rose from 21.1 per cent to 37.8 per cent, including 29.1 per cent using hormonal contraceptives. The annual growth of the proportion of women using contraceptives from 1996 to 1997 was 2.8 percentage points. However, contraception is not yet free, and only a small part of it is paid by health insurance.

Abortions[a]

Year	Total abortions	Induced abortions	Spontaneous abortions	Other abortions
1994	67 434	54 836	11 109	11
1995	61 590	49 531	10 571	12
1996	59 962	48 086	10 296	20
1997	56 973	45 022	10 392	7
1998	55 654	42 959	11 128	12

Source: The Czech Statistical Office, 1999.

[a] Including ectopic pregnancies.

499. Support for planned parenthood is one of the areas of the National Health Program which the Ministry of Health fulfils on an ongoing basis. It also includes related issues: contraceptive use, education on the risks of induced abortion (emphasis is placed primarily on performing it early enough - so-called mini-abortion, i.e. within eight weeks after conception), influence on women in problem social groups and ethnic minorities, with emphasis on postponing a first pregnancy until the age of legal maturity.

500. The non-governmental organization the Society for Family Planning and Sex Education also works with family issues. Since 1997 this association has had the status of full membership in the International Planned Parenthood Federation,[302] promoting the rights guaranteed by its Charter of Sexual and Reproductive Rights. The Charter connects to international documents on human rights which are important for sexual and reproductive health, including programmes of the International Conference on Population and Development (1994), the Platform for Action of the Fourth World Conference on Women (1995) and other United Nations documents. The association operates a telephone consulting service for planned parenthood, mainly on reliable

contraception, and offers assistance in handling urgent and crisis situations. The Ministry of Health provides financial support to the project as part of its implementation of the National Health Program.

501. According to the Association for Family Planning, there is a problem in the legal regulation of voluntary sterilization in the present Act on Public Health,[303] and in the 1972 decree of the Ministry of Health. Women may undergo voluntary sterilization, at their own request, only for health reasons. These also include a requirement of having four living children or three children and the woman being at least 35 years old. An application is evaluated by an expert commission. This condition is discriminatory according to the Association.[304]

502. The Ministry of Health arranges two programmes concerning protection of the health of women and girls. They are: the Healthy Sexual Life Program and the National Perinatological Program, which include care for a woman before planned conception and care for a pregnant woman and the developing foetus, including care during childbirth and care for the newborn in the first days after birth.

503. The basic indicator of child health care is infant mortality, where the Czech Republic achieved a reduction under 10 per 1,000 in 1992, to 9.9 per 1,000. In 1997, infant mortality was 5.9 per 1,000, which corresponds to the level of the European Union countries. Infant mortality is affected by low birth weight. The proportion of newborns with weight up to 2,500 g out of the total number of live births is about 6 per cent, but the proportion of the total number of infant deaths is around 60 per cent.

504. The most frequent causes of infant mortality are certain conditions which arise in the perinatal period and which cause over half of infant deaths. The second most frequent causes of infant death are congenital malformations, deformations and chromosomal abnormalities. In 1997, 2,680 children were reported with a congenital malformation discovered before the child reached one year of age, which is an increase of 18 per cent over 1996. In comparing defects in girls and boys, it can be said that more defects are found in boys. The most frequent are congenital heart malformations. Thanks to the improving level of prenatal diagnostics, the incidence of certain genetic defects in newborns is declining. These are nervous system fissures, stomach wall defects, certain serious heart defects, defects of the urogenital system and chromosomal abnormalities (primarily Down's syndrome). Despite the success achieved, congenital defects are a 25 per cent share of the total number of infant deaths.

Infant deaths in the Czech Republic by age

Age at death	Number[a]				Per 1,000 live births			
	1990	1996	1997	1998	1990	1996	1997	1998
Day 0	236	73	62	66	1.8	0.8	0.7	0.7

Source: The Czech Statistical Office, 1999.

[a] Cumulative numbers.

505. In the prenatal period, a woman has 10 examinations in a normal pregnancy and more if necessary. Ultrasound testing is done twice during pregnancy (in the twentieth and thirty-second week), more frequently in high-risk and pathological pregnancies. The number and scope of examinations in the prenatal period is set by the Decree on Dispensary Care.[305] This care is paid from general health insurance.

506. The health of the child population in the Czech Republic is not improving considerably, despite the good level of health care for this population group. No decline of sickness rates of children and juveniles is apparent, and the number of those treated is not declining (the number of congenital developmental defects and allergic illnesses, including bronchial asthma, is climbing and the increase of nervous system diseases, mental retardation and serious behavioural disorders is continuing). We consider the most serious cause of this to be the polluted environment, particularly in industrial urban areas, and an unhealthy way of life; the number of serious injuries to children is also increasing relatively.

507. Since 1990, the percentage of juveniles and children who have experiences with drugs, or are already addicted to them, has been increasing. Nicotine addiction and alcoholism are also increasing among young people. Young people aged 15 to 19 are in the high-risk population which most frequently experiments with illegal drugs. Epidemiological studies show that approximately one third of secondary school students already have experience (even if only once) with a non-alcohol drug. The average age of new problem users at the time of their first visit is 20.6, but of newly registered users, 12.7 per cent confirmed that they had their first experience with a drug before reaching the age of 15; in the group aged up to 19 it was 74 per cent.[306]

508. Coordination of access to drug treatment at the central government level is arranged by the Inter-Ministerial Drug Commission of the Government of the Czech Republic, headed by the Prime Minister, with members being the Ministers of the Interior, Justice, Health, Education, Youth and Sport, and the Minister of Labour and Social Affairs. In February 1998 the Government approved an Outline and Program for Anti-Drug Policy for 1998 to 2000,[307] which sets tasks for the individual ministries and local government and self-government bodies. Emphasis is laid not only on the methods and means of punishment but also - especially among children and juveniles - on prevention. The anti-drug policy is financed through the appropriate ministries and their subsidy programmes, and also from the budget chapter General Treasury Management through district and city offices, in special-purpose subsidies. At the end of 1998, the database of treatment/contact centres registered a total of 237 facilities which reported contact with drug users as part of their activities. The total number of newly registered clients (without age differentiation) in 1998 was 3,858; in 1997 it was 726 fewer.

509. Statistics about hospitalization and dispensary treatment tell the story of rates of serious childhood and adolescent illness. The proportion of child patients of the total number of hospitalizations in 1997 was 16.5 per cent: 345,000 hospitalizations were recorded of children 0-14 (including newborns), which is 19 cases per 100 children; in the age group 15-19, there were 90,000 hospitalization cases in 1997 (11 adolescents per 100 inhabitants).

510. The most frequent causes of hospitalization among children aged 0-1 year are conditions which arose in the prenatal period (15 per cent of hospitalizations in that age group), then respiratory tract illnesses (8 per cent). In the groups aged 1-4 and 5-9 respiratory tract diseases are clearly the most frequent cause of hospitalization (roughly 40 per cent of hospitalization), followed by injuries and poisonings (12 per cent). Among children aged 10-14 injuries and poisonings are in first place (almost 20 per cent). Diseases of the digestive tract are in third place among all children. In adolescence the most frequent cause of hospitalization is injuries.

511. Another source of information about sickness rates is dispensary treatment. Children are most frequently treated for diseases of the nervous system and sensory organs, primarily for visual disorders, followed by respiratory tract illnesses (primarily bronchial asthma), and diseases of the skin and subcutaneous tissue (primarily eczema). In third place among juveniles are illnesses of the muscular and skeletal systems.

512. Development of diagnostic methods in the Czech Republic continues (for example, magnetic resonance imaging for child patients was started). Highly specialiZed centres are being created for treatment of children in cardiology, neurology, traumatology, perinatology and oncology. Considerable success was achieved in childhood transplants - transplants are being done of kidneys, the heart (even in small children), lungs and liver. The introduction of new treatments in oncology has led to a gradual decrease in deaths from malignant neoplasm in recent years. While in 1991 12 boys and 6 girls died (out of 100,000 boys and girls), in 1996 it was 6 boys and 4 girls.

513. Health care for children and adolescents is paid from general public insurance to the extent specified by the Act on Public Health Insurance.[308] The State pays public health insurance for children and adolescents. In special children's facilities (infant institutions and orphanages for children up to three years of age) health care is paid out of the founder's budget.

514. Operations which cannot be performed domestically are, in exceptional cases, partially paid from the budget of the Ministry of Health. These are primarily transplants of organs and bone marrow in children and juveniles. In 1998 and 1999 over CK 19 million were spent from the budget of the Ministry of Health for these purposes. Funds are also obtained for these operations by public collections of financial donations from natural persons and legal entities.

515. Certain inoculations are also paid from the budget. The extent and rules for compulsory inoculation are specified by the Decree on Inoculation against Contagious Diseases.[309] Inoculations are paid under the Act on Health Insurance.

516. The decree includes compulsory regular inoculation of children with a triple vaccine against diphtheria, tetanus and whooping cough, a triple vaccine against measles, rubella and mumps and a vaccine against contagious childhood polio and tuberculosis. The decree also distinguishes special inoculation, which is done for people who are exposed to higher risk of infection in their profession. This includes inoculation of health-care workers against TB and viral hepatitis type B. The decree also distinguished extraordinary inoculations (e.g. against flu for medically vulnerable persons), inoculation against injuries (against tetanus), inoculation against rabies and inoculation before trips abroad (against malaria). The safety of inoculation materials used is ensured by the Act on Medicines.[310]

517. As of 30 June 1999 there was a total of 411 cases of HIV registered in the Czech Republic. In 124 of them full-blown AIDS had been diagnosed as of that date; 77 patients with AIDS died. As of the same date in the Czech Republic, there were 35 HIV-positive cases among pregnant women, who gave birth to 25 children (in one case twins, in nine cases the pregnancy was artificially terminated at the mother's request, in one case there was a spontaneous miscarriage). Nineteen children have already been diagnosed HIV-negative while another five had not yet, at that date, reached the age of two, when it is possible to determine the child's HIV status definitively; one child was found to be HIV-positive.

518. In 1991 the Government approved the National AIDS Prevention Program,[311] which was also the basis for the medium-term plan for handling the HIV/AIDS problem in the CR, prepared for 1993 to 1997. Within the plan it was possible to achieve, among other things, arranging anonymous, free and easily available HIV testing in a wide network of sampling and testing locations, creating many local and one national AIDS help lines and several AIDS advice bureaux. The proportion of non-State non-profit organizations in the programmme was increased, and health-care education programmes using contemporaries were started ("peer programmes"), particularly for young people. The problem of prevention of sexually transmitted diseases and AIDS was included in educational outlines in effect. Programmes of pre-graduate and post-graduate education of teachers on the HIV/AIDS programme and sex education were also started in cooperation with the Ministry of Health, Education and Sport and non-governmental non-profit organizations.

519. At present the National Program for the Prevention of HIV/AIDS in the Czech Republic in 1998 to 2002 is in effect. The main tasks of this programme include:

- Support of safer sex;
- Providing information on perinatal transmission of HIV;
- Arranging consulting for HIV-positive women;
- Providing consulting about HIV prevention to all pregnant women, including offering a HIV test;
- A media campaign on the national and regional levels, aimed at the general public, with the aim of achieving increased knowledge about the importance of safe sexual contact in HIV/AIDS prevention and a change in sexual behaviour, through the use of expert articles, discussions, educational events, television and radio programmes, etc.

520. Protection of children against use of addictive substances. Under section 218 of the Criminal Code serving alcoholic beverages to persons under the age of 18 is punishable. Section 4, paragraph 1, of the Act on Protection from Alcoholism and Other Toxin Addictions[312] forbids selling or serving alcoholic beverages or otherwise making their consumption possible to persons under 18. It also forbids selling tobacco products to persons under the age of 16. Under section 4, paragraph 3, of this Act, territorial State government authorities may, in their

territorial districts, restrict or forbid the sale in stores of addictive substances or products containing them to persons under the age of 18. Under section 5 of the Act, everyone who sells or serves alcoholic beverages is required to refuse to sell them to a person about whom there may be doubt that he meets the age requirement, unless that person proves it with an official document. Legal representatives of juveniles are also required to see to it that all these prohibitions are observed.

Paragraph 2 (b)

521. Living conditions include primarily the state of the environment, which is defined by the quality or cleanliness of those components of the environment which are fundamentally important for an individual's life: air and water, nature and the countryside. The right to a favourable environment is guaranteed by article 35 of the Charter:

> "(1) Everyone has the right to a favourable environment.
>
> "(2) Everyone has the right to timely and complete information about the state of the environment and natural resources.
>
> "(3) No one may, in exercising his/her rights, endanger or cause damage to the environment, natural resources, the wealth of natural species, or cultural monuments beyond the extent designated by law."

522. The right to information about the environment is regulated in detail by the Act of the same name,[313] which also charges the Ministry of the Environment and the Ministry of Education, Youth and Sports to cooperate in information, education and training for protection of the environment. Therefore, in December 1999 the Ministries concluded a bilateral agreement which governs the division of jurisdiction in this area.[314] The Ministry of the Environment coordinates work in preparation of the State Program of Environmental Information, Education and Training of the Czech Republic, which it will submit to the Government by the end of 2000. The document will be connected to the State Environmental Policy[315] and the Combined Ministry Outline for Information, Education and Informing the Public about Environmental Matters, with the important appendix, entitled "Overview of ensuring environmental information, education and training in European Union countries and in certain other countries".[316]

523. Water protection is ensured by the Water Act.[317] In particular, this means the provisions of part three of the Act, "Water Protection", which regulate territorial protection of water using areas of natural water accumulation, protective zones of water sources and waterways used for drinking water and their river basins. This part also regulates the quality of surface and underground waters and supplying the population with drinking water. A new Water Act is now being prepared; a draft is to be submitted to the Government in the first quarter of 2000. In 1999 the Government adopted a new Decree No. 82/1999 Coll., to implement the Water Act, which sets indicators and values of allowable levels of water pollution.

Public water supply systems and public sewerage systems
(data in per cent)

	1990	1994	1995	1996	1997	1998
Percentage of population supplied with drinking water from public water-supply systems	83.2	85.5	85.8	86.0	86.0	86.2
Percentage of population living in buildings connected to public sewerage systems	72.6	73.0	73.2	73.3	73.5	74.4
Percentage of waste water treated	72.6	82.2	89.5	90.3	90.9	91.3

Source: Statistical Yearbook of the CR, 1999.

524. Protection of the air is ensured primarily by the Air Act [318] and the Act on Protection of the Earth's Ozone Layer.[319] In terms of protecting the population from disproportionately polluted air, particularly important provisions are those setting the allowable level of pollution through immission, emission and deposit limits under section 14 of the Air Act, special protection of the air through areas requiring special protection of the air under section 15 of the Air Act and measures on addressing a smog situation under section 16 of the Act. These provisions of the Act are implemented by the following regulations:

- The Decree of the Ministry of the Environment, which Defines Areas Requiring Special Protection of the Air and Sets Principles for Creating and Operating Smog Regulation Systems and Certain Other Measures for Air Protection;[320]

- The Measure of the Federal Committee for the Environment on the Act on Protection of the Air from Polluting Substances.[321]

525. The Ministry of the Environment is preparing a new Act on Protection of the Air and the Earth's Ozone Layer. It will submit a draft substantive outline to the Government in the first quarter of 2000. The Act is to be submitted to the Government and go into effect during the second half of 2001.

526. The prepared Act on Integrated Prevention and Limitation of Pollution, which will be in accordance with European Community law, will also be important for air protection. Together with the prepared Act on Protection of the Air and the Earth's Ozone Layer, it will newly address the issue of air pollution by large industrial companies. The Minister of the Environment will submit a draft substantive outline to the Government in the second quarter of 2000.

527. Protection of nature and the countryside, i.e. protection of the gene pool of animals living in the wild and wild plants, as well as the ecological balance of the countryside as a natural whole, are ensured by the Act on Protection of Nature and the Countryside and the implementing decree to this Act.[322] These legal regulations are now being evaluated in terms

of their compatibility with European Union law, and the Ministry of the Environment is preparing related amendments to them, as was also provided by the State Program for Protection of Nature and the Countryside in the Czech Republic.[323]

528. The document "Transportation Policy of the Czech Republic" [324] sets as a primary goal achieving stabilization and gradually decreasing the negative effects of transportation and traffic on the environment. This will lead to increased protection of the population and ecosystems, to minimizing use of natural resources and fossil fuels, and to meeting demands for safety and higher mobility of people. Development of environmentally friendly transportation systems will also be supported (i.e. those decreasing energy consumption, limiting production of air-polluting emissions and the noise level, with lower requirements for use of land and with lower risk of contamination of water and soil). This means supporting public and integrated transportation, mass and combined freight transportation, environmentally friendly transportation systems, modernization of automobiles, tightening emission standards, developing transportation infrastructure - particularly by-pass roads around cities and municipalities - improving fuel quality, etc.

529. Preparation of an Act on Treatment of Genetically Modified Organisms and Products, which will regulate a problem not as yet addressed by the Czech legal system, is also important for protection of human health. The Minister of the Environment submitted a draft to the Government of the Czech Republic in November 1999.

530. Significant elements affecting the quality of the environment are waste treatment methods particularly of large industrial facilities. Limiting the production of wastes and their treatment methods are addressed by the Act on Wastes.[325] The Act also addresses the issue of dangerous wastes and for now also the issue of wrappers and waste from wrappers. Everyone's basic duties, under section 3 of this Act, include preventing the creation of waste and limiting its amount and dangerous qualities. The Act sets out rules under which waste can be handled (used, rendered harmless, treated, stored, transported, sorted, etc.). In 1999 the Government issued an implementing decree to this Act which sets out a list of products and wrappers to which a duty of return applies, and details on handling the wrappers, wrapping materials, and waste from used products and wrappers.[326] Enforcing producer's duties to sort produced waste is still problematic.

531. The Ministry of the Environment is preparing a new Act on Waste, which it will submit to the Government, under the legislative work plan, in the second quarter of 2000; it is also preparing an Act on Wrappers and Wrapper Waste, which will be submitted to the Government in 2001. Both Acts are expected to go into effect as of 2002.

532. In terms of limiting the negative effects of certain activities (large industrial facilities, etc.) on the environment, the Act on Evaluation of Effects on the Environment [327] is fundamentally important. The new Act on Evaluation of Environmental Impact, which the Minister of the Environment submitted to the Government for discussion at the end of 1999, will probably go into effect in mid 2000. This Act should be fully in accordance with European Community law, as well as the Convention on Access to Information, Public Participation in Decision-Making and on Access to Justice in Environmental Matters (known as the Aarhus Convention), which the Czech Republic is preparing to ratify in 2000.

533. In terms of effects on the environment, it will undoubtedly be important to monitor the actual results of a specific project (e.g. a large industrial facility) on the environment, which is foreseen in the draft of the new Act. The Ministry of the Environment is also preparing a draft of a new Act on Integrated Prevention and Limiting of Pollution, the purpose of which is to limit pollution caused by manufacturing activities and which will be fundamentally important in the inspection of the operations of various manufacturing facilities (industrial and agricultural). An operating permit, issued for a definite period of time, should be based primarily on the best available technology and observance of set emissions limits.

534. All subsystems of the countryside in question are also significantly affected by mining. The negative effects are being fought by the organization of the mining industry on the basis of the Mining Act,[328] and clean-up and recultivation programmes. Land harmed by mining activities is thus being returned and reincorporated into the countryside.

535. Entire territories devastated by mining are thus systematically transformed through recultivation into new fields, fruit orchards, forest growth and parks, new waterways and reservoirs and recreational areas. In addition to the mining companies' own funds (which are spent for clean-up and recultivation by law), the State participates in this technically and financially demanding and time-consuming activity through disinvestment subsidies from the State budget. From 1994 to 1996 the State provided CK 2,585 million from its budget for liquidation of older mining facilities; in the same period mining companies spent CK 1,560 million on clean-up and recultivation.

536. In the course of preparation for acceptance into the European Union the Czech Republic must considerably change existing legal regulations in the area of the environment and adapt the current system of protection to the Union's requirements. Investments for making these changes are estimated at CK 250 billion. For these reasons, the Czech Republic will probably request postponements in fulfilling European Union membership obligations, including after the expected date of acceptance as a member in 2003, in the areas of protection of water, handling of waste, industrial pollution and protection of nature.[329]

537. The European Commission sees an important shortcoming in the failure to adopt new Acts on Waste, on Protection of Water and on Evaluation of the Environmental Effects of Construction. The Ministry of the Environment is still preparing the first two laws (it should submit them to the Government in 2000); the draft Act on Evaluation of the Environmental Effects of Construction is being discussed by the Chamber of Deputies of Parliament and it should go into effect in the second half of 2000. Therefore, requests for postponement in fulfilling EU membership obligations will concern the fact that:

- Not all municipalities with over 2,000 residents will have a wastewater cleaning facility;

- The country will not recycle a sufficient amount of waste;

- Water running from agricultural areas will have too many nitrates;

- The country will not have time to re-register the European network of protected territories according to EU criteria;

- Companies will not meet the requirement of using available technology which is the most protective of the environment;

- Companies will not meet limits for release of pollutants (e.g. heavy metals) into rivers;

- In some cases the stricter limits for consumer drinking water will not be observed for two chemicals (lead, 1,2-dichloretan).

Expenditures for the environment from public sources (in billion CK, current prices)

Sources of financing	1994	1995	1996	1997	1998
Total	13.7	14.9	13.9	9.2	9.2
Including: State Fund for the Environment	3.6	4.9	4.7	3.4	2.3
State budget	10.0	9.2	8.3	4.4	4.7
National Property Fund	0.1	0.8	0.9	1.4	2.2

Source: The Czech Statistical Office, 1999.

538. The Czech Republic made progress in 1997 by passing the Act on peaceful use of atomic energy and ionizing radiation (the Atomic Act).[330] This Act is the legislative framework for safe operation of nuclear facilities and sets an administrative body responsible for safe handling of radioactive wastes - the Administration of Radioactive Waste Storage Sites. The State, through the Ministry of Industry and Trade, financially arranges the collection, destruction and storage of radioactive wastes from health-care facilities, scientific institutions and industrial companies (institutional radioactive wastes). To increase the safety of nuclear power plants, the State also, through the Ministry of Industry and Trade, finances research tasks and finances work in State emergency preparation in the event of a nuclear accident. The largest proportion of State financial participation is in repairing ecological damage after uranium mining. Subsidies are provided to the State company Diamo. Ensuring nuclear safety and radiation protection of nuclear facilities when they become operational and during their operation is regulated by Decree of the State Office for Nuclear Safety, No. 106/1998 Coll.

539. The Ministry of Health, through the Internal Grant Agency, supports research on living conditions, epidemic diseases and health systems which addresses creating optimum conditions for ensuring medical assistance and care. From analysis of results of completed projects from 1993 to 1996, eight projects on the environment were implemented and CK 736,000 spent. However, projects on the theme of the environment often also reach into other priority areas, particularly the project "Healthy Cities" (13 projects in 1998). These comprehensive programmes address the environment and health, usually together, with the themes of exercise, stress, healthy schools and disease prevention.

540. The Ministry of Health, in cooperation with other ministries, particularly the Ministry of the Environment and the Ministry of Agriculture, prepared the document "Action Plan for Health and the Environment of the CR", which the Government approved in December 1998.[331] This document expresses the agreement of the ministries in addressing problems of health and the environment, and is considered a component of health policy for a healthy environment and the health of the population. It is closely related to other documents approved by the Government, particularly the State Policy for the Environment and the National Health Program.

541. In April 1999 the Government established the Council for Health and the Environment,[332] in which all the relevant ministries are represented, and which provides substantive assistance in creating conditions for improving the environment and the health of the population.

542. The Ministry of Health also arranges monitoring of the health of the population in relation to the environment, through the long-term programme "System for Monitoring the Health of the Population in Relation to the Environment".[333] The purpose of the programme is to obtain information on an ongoing basis for creating a State health policy and protection of the environment at all levels of State administration, creating prerequisites for the appropriate legislative measures and for setting correct limits for substances which pollute the environment.

543. In 30 selected cities, the following are regularly evaluated (not all subsystems are evaluated in all 30 cities):

- Health consequences and risks of polluted air, polluted drinking water, and the disturbing effects of noise;
- Health consequences of burdens on the human organism from non-digestible substances in the food chain (dietary exposure);
- Health consequences of exposing the human organism to toxic substances from the external environment (biological monitoring);
- The health of the population and selected indicators of demographic and health statistics.

Results of the monitoring are published annually, both in a summary report and in detailed specialized reports.

Paragraph 2 (c)

544. The right to protection of health is generally guaranteed by the already cited article 31 of the Charter. This right is also ensured by the Act on Public Health[334] in connection with other regulations, particularly the Act on Public Health Insurance. Basic requirements for protection from occupational illness are contained in the Decree on Creation and Protection of Healthy Living Conditions.[335] Protection of health in work where factors are present which could cause occupational diseases (e.g. noise, vibrations, dust, chemical substances, carcinogens, ionizing and non-ionizing radiation, excessive heat) is governed by a number of special regulations. A

compulsory component of measures for protection from occupational illness is preventive medical examinations of employees who perform work with a risk of occupational illness. A list of diseases recognized as occupational illnesses was set by government regulation[336] in 1995. This list has 83 items.

545. Prevention of contagious diseases is ensured primarily by the Decree on Inoculation against Contagious Diseases[337] and the Decree on Measures Concerning Contagious Diseases.[338]

546. The epidemiological situation in the Czech Republic is monitored by the health service, which is under the Ministry of Health. An obligation to report infectious illness is set by the above-mentioned Decree on Measures against Contagious Diseases. The health service orders certain appropriate anti-epidemic measures according to the seriousness of the situation. The State Health Care Institute monitors the number of cases.

547. The incidence of infections against which compulsory inoculation, paid for by the State, is performed is based on the inoculation level, which is over 98 per cent. Thanks to inoculation childhood polio and diphtheria have been practically eliminated in the Czech Republic and whooping cough, tetanus, measles, mumps and rubella have been considerably reduced to isolated cases, which are generally cured.

548. General inoculation of the population also improved the situation with respect to infectious diseases, although infection remains a potential risk. In 1997, 1,834 cases of TB were recorded in the TB register. Therefore, in that year, compulsory inoculation of newborns against TB was renewed. In the 1990s a new increase of salmonella was recorded; in the large majority of cases it appeared to be due to breached hygiene regulations during food preparation. The AIDS reference laboratories registered 402 HIV-positive persons as of 30 April 1999. AIDS developed in 123 persons, 79 of whom died.

Newly reported cases of diseases caused by occupation

	1993		1995		1997	
	Total	per 100 thousand workers	Total	per 100 thousand workers	Total	per 100 thousand workers
Intoxication	61	1.29	60	1.27	62	1.28
Dermatitis	504	10.70	552	11.72	452	9.35
Lung cancer from radioactive substances	92	1.95	55	1.72	45	0.93
Contagious and parasitic diseases	508	10.79	506	10.75	362	7.49
Illnesses from vibrations	658	13.97	509	10.81	457	9.45
Illnesses from long-term excessive work	450	9.55	460	9.77	464	9.6
Silicosis	492	10.44	466	9.9	280	5.79
Bronchial asthma	-	-	65	1.38	104	2.15
Hearing disorders	114	2.42	80	1.7	65	1.34
Other	104	2.21	53	1.13	59	1.22
Total	2 983	63.32	2 806	59.60	2 350	48.62

Source: Health Care Yearbook, Institute for Health Information and Statistics, Prague.

549. After 1990, unlike most post-Communist countries and despite the incomplete transformation process of the health care system, the main statistical indicators of health have been changing positively. As stated above, the life expectancy at birth is increasing and total mortality is decreasing, particularly mortality from cardiovascular illness. These positive trends are sufficiently distinctive that, if they continued, it would be possible within roughly 15 to 20 years to reach the average values of European Union countries in these fundamental health parameters. The value of infant mortality of 5.9 per 1,000, achieved in 1997, is already comparable to the values of developed EU countries.

Accessibility of medical care

550. The Constitution of the Czech Republic and other legal regulations establish the citizen's right to health care. Access to health care is ensured by a network of health care facilities. State administration authorities are required to ensure accessibility of care in urgent cases within 15 minutes. In addition, the Act on Health Care indicates the obligation of health care workers to provide first aid and also the fact that in cases where a health care facility provides urgent care to an insured person, the health insurance company will pay for it even if the health care facility does not have an agreement with the health insurance company.

551. The network of health care facilities currently consists of hospitals, expert treatment institutes, spa treatment centres, sanatoriums and recuperation centres, polyclinics and associated ambulatory facilities, health care centres, independent doctors' offices, independent laboratories, infant institutions and children's homes, children's centres and day clinics, nursery schools, pharmacy care facilities, the health services and other health care facilities.

552. Health care facilities in the CR are divided into State facilities, which are established by the Ministry of Health, other Ministries (Defence, the Interior, Transport and Justice) or district offices, and non-State, which include municipal or city health care facilities, private facilities, Church facilities, and facilities established by non-governmental organizations. The total number of health care facilities in 1998 was roughly 24,500, of which approximately 20,000 were non-State, predominantly the practices of ambulatory physicians.

A. Government health establishments
(number as of 31 December of each year)

	1994	1995	1996	1997	1998
Hospitals (in-patient and out-patient)	153	134	120	114	109
Therapeutic institutions for TB and respiratory diseases	12	11	10	10	10
Psychiatric clinics	20	18	18	19	19
Therapeutic institutions for long-term patients	64	59	52	58	53
Physiotherapy institutions	6	4	3	3	3
Convalescent centres	20	18	14	12	10
Other specialized treatment institutions	25	21	24	18	16
Spas	12	13	11	10	9
Infant institutions and children's homes[a]	38	37	35	33	34
Children's day clinics and centres	32	23	17	14	14
Pharmacies and dispensaries	447	185	102	79	73
Hygienic services	90	86	85	85	85
Total beds	107 039	91 921	86 569	82 107	79 958
Physicians (in thousands)	17 552	15 517	14 631	14 468	14 120

[a] Children's homes for children under the age of three.

B. Non-governmental health establishments
(number as of 31 December of each year)

	1994	1995	1996	1997	1998
Hospitals (in-patient and out-patient)	56	82	97	103	107
Specialized treatment institutions - total	66	81	88	94	98
Including: treatment institutions for long-term patients	7	15	19	21	21
spas	39	42	40	41	47
Infant institutions and children's homes	5	6	6	6	5
Children's day clinics and centres	30	43	46	45	44
Pharmacies and dispensaries	949	1 214	1 415	1 547	1 637
Total beds	31 576	38 328	38 725	38 890	38 840
Physicians (in thousands)	18 049	20 831	21 823	22 207	22 566

Source: Statistical Yearbook of the CR, 1999.

553. In-patient care was provided in the Czech Republic in 1998 by a total of 216 hospitals with 69,900 beds, 167 specialized treatment institutions with a total of 22,000 beds and 53 spa treatment centres with a total of 19,950 beds. Compared to 1994 bed capacity declined by 14 per cent. On aggregate, there were 109 beds per 10,000 people. There were 10 beds per 1 physician in all in-patient facilities.

554. Specialized ambulatory care consists of two networks of health care facilities. The first network consists of 4,910 independent, mostly private doctors' offices, with almost 6,000 specialized ambulatory physicians and over 13,000 nurses. The second network consists of the ambulatory departments of 215 hospitals, with 5,600 physicians and over 26,300 nurses and intermediate health care personnel.

555. The system of primary care consists of a network of general practitioners for adults, general practitioners for children and juveniles, ambulatory gynaecologists and dentists. In 1998 there were 4,800 general practitioners for adults registered in the Czech Republic, thus 1 for every 1,800 people over the age of 15; 95 per cent of general practitioners for adults worked in the non-State sector. As of the same date, a total of 2,200 general practitioners for children and juveniles were registered (96 per cent in the non-governmental sector), 1 for every 1,100 to 1,200 children. There were a total of 1,060 ambulatory gynaecologists in mid-1998 (97 per cent in the non-State sector), with 5,100 to 5,200 women per physician. There were 4,840 dentists (98 per cent in the non-State sector), which represented 1,800 people per dentist.

556. In 1997 there were a total of 3.5 physicians, including dentists, per 1,000 people. In comparison with some European Union countries, the Czech Republic has relatively high values of this quantitative indicator. The number of beds roughly corresponds to European Union

indicators, but its structure is different. In the Czech Republic there are relatively more general purpose beds and fewer beds for recovery and chronic conditions. The total number of beds in all health care facilities is 12.1 per 1,000 inhabitants. The figure for acute-care beds is around 6.9 beds per 1,000 people; Germany has 6.9 beds and France 4.7 beds while Great Britain has only 2.0 and Norway 3.1 beds per 1,000 people. However, a typical feature of health care in the Czech Republic is a longer hospitalization period and a high number of contacts with patients in primary and specialized ambulatory care.

557. Citizens' access to health and security services is made easier by free phone calls (including from public pay phones) to shortened emergency numbers from anywhere in the Czech Republic. To make communication of the handicapped with their surroundings easier, there is a special lower telephone rate. So far, however, the problem of adjusting favourable telephone rates in the context of the ongoing and expected price increases for telecommunication services has not been resolved. Also, providing telecommunications access for population groups with special social needs (single elderly people, the long-term unemployed, etc.) has also not yet been resolved.

Health policy aims for improving the existing level of health care

558. To improve health care for the population and its accessibility, it is necessary to:

- Solve the financial deficit of Czech health care, reflected in the activities of health care facilities and insurance companies and the pay of health care workers;

- Create a network of health care facilities, particularly with regard to the creation of higher territorial administrative units and the volume of financial resources used (accessibility and connection through the levels of health care, balance between fields and the number of contracted physicians in relation to normative numbers, stabilization of the network of ambulatory and specialized health care facilities in accordance with concepts of individual medical fields, standardization of equipment for various kinds of health care facilities, etc.);

- Harmonize health care legislation concerning the health of citizens with European Union law (including citizens' right to view and make copies of the health care documentation which physicians keep about them);

- Shift the focus of care to prevention and primary care, while simultaneously strengthening the efficiency of the entire health care system;

- Improve communication between the Government, representative bodies, the Ministry, associations of patient representatives and the citizen, and between various interest and professional groups of health care workers and citizens/patients;

- Complete the structure of jurisdiction of national and local administrative bodies in relation to higher territorial administrative units;
- Introduce a system for monitoring and evaluating the quality of care;
- Prepare and introduce a system of accreditation for health care facilities;
- Create a corresponding information system;
- Repair neglected buildings and balance out the level of technical equipment of facilities in the network, including meeting the requirements of the Atomic Act for the conditions of health care facilities.

Article 13

Paragraph 1

559. Everyone's right to an education is guaranteed by article 33 of the Charter: "Everyone has the right to education. School attendance shall be obligatory for the period specified by law. Citizens have the right to free elementary and secondary school education, and, depending on particular citizens' ability and the capability of society, also to university-level education. Private schools may be established and instruction provided there only under conditions set by law; education may be provided at such schools in exchange for tuition. The conditions under which citizens have the right to assistance from the State during their studies shall be set by law."

560. Upbringing and education provided by elementary and secondary schools is also governed by the Schools Act (the right to education and schools to which this right applies are set out in sections 1 to 4 of the Act) and related decrees.[339] Components of the upbringing and education system are elementary schools, secondary schools, special schools and higher vocational schools, if included in the schools network.

Kindergartens

561. Kindergartens serve as a supplement to family upbringing, and ensure pre-school upbringing of children generally between the ages of three and six. Attendance is not compulsory, and is decided by a child's parents. Kindergartens help considerably to balance out the differences between children caused by different cultural and social backgrounds in families.

562. Children generally attend kindergarten between the ages of three and six. In justified cases, younger children can be accepted to kindergarten. Older children whose compulsory school attendance has been postponed also remain in them; postponing compulsory school attendance is increasingly frequent: from 1993 to 1999 the proportion of children who entered

elementary school at age seven was around 20 per cent. Kindergarten attendance is not compulsory, although from time to time consideration is given to introducing compulsory pre-school education for children in the last year before compulsory education. Nonetheless, attendance at kindergarten is high, particularly among children aged five and older. Pre-school attendance eases their transition to elementary schools.

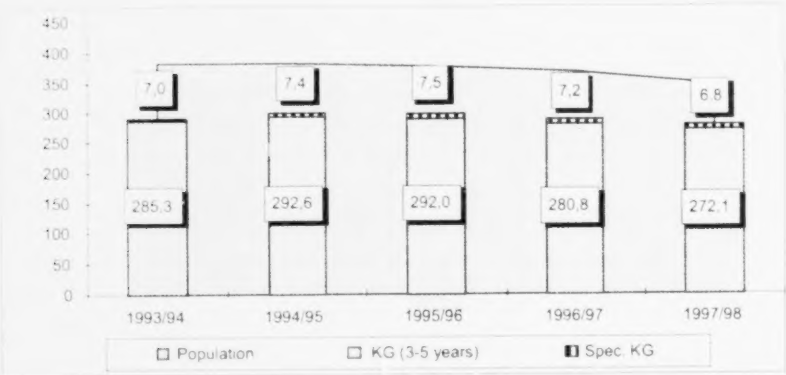
Number of kindergartens and children placed in them (in thousands)

	89/90	90/91	91/92	92/93	93/94	94/95	95/96	96/97	97/98
School	7 328	7 335	6 972	6 827	6 599	6 526	6 474	6 344	6 152
Children	395.2	352.1	323.3	325.7	331.5	338.1	333.4	317.2	307.5

Source: Institution for Information in Education.

563. There were declining numbers of children in kindergarten until 1991 when a changed attitude to kindergarten appeared, related to extended maternity leave and the gradually changing model of the family where the mother stays at home even after maternity leave and continues to raise her children herself. The declining demographic trend also played a role, and is the main cause of the recent decline in the number of children in kindergarten. Compared to 1989 there was a 22 per cent decline in children in kindergarten. However, despite the declining number of children in nursery schools, they are still attended by 88 per cent of all pre-school-age children and the role of kindergarten in raising children is irreplaceable. The number of nursery schools declined from the 1989/90 school year to the 1999/2000 year by 1,176, or 16 per cent.

Numbers of children attending kindergartens and special kindergartens compared to development of the population aged 3-5 let (in thousands)



Source: Institution for Information in Education.

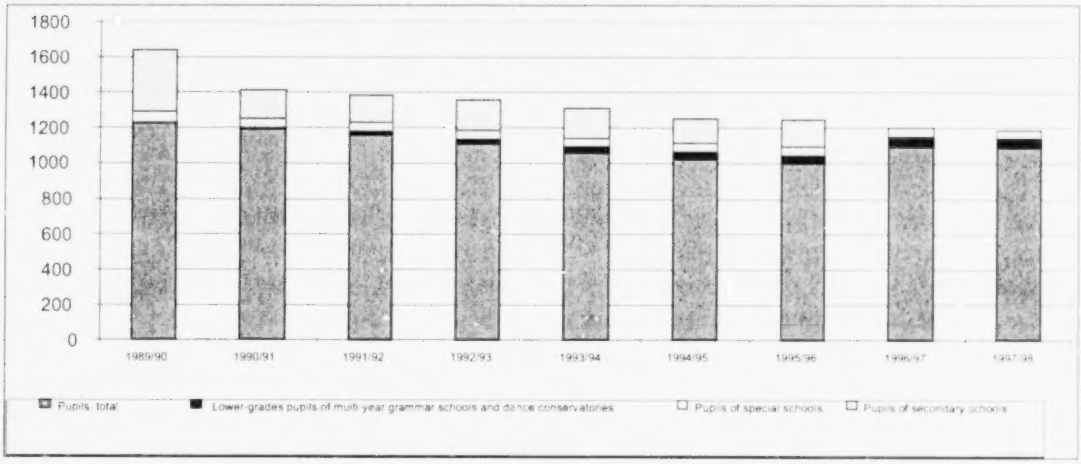
Note: The age structure of children in kindergartens was not tracked before 1993; children in special kindergartens are without differentiation by age.

564. Since 1990/91, handicapped children have also been accepted into kindergarten. These children can be integrated among healthy children, or special and specialized classes can be chosen.[340] In 1997/98 the number of children thus integrated exceeded 7,200, 3,000 of whom were integrated directly into regular classes. The most frequent handicaps were speech defects and combinations of several handicaps.

Elementary schools

565. Elementary schools provide education to children usually aged 6-15. Nine years of school are compulsory by law. Talented pupils can go from the lower grades of elementary school to multi-year grammar schools[341] and to dance conservatories and finish the last four years of compulsory education there.

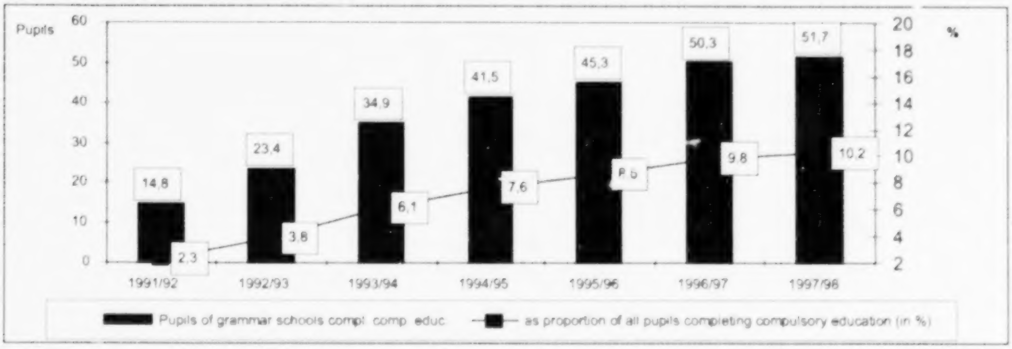
Number of pupils aged 6-15, who are completing compulsory education at elementary, secondary, and special schools (in thousands)



Source: Institution for Information in Education.

566. The relatively rapid decline in the total number of pupils in elementary school is a reflection of demographic developments. An important factor in the decline in the second level of elementary education (grades 6 to 9) is, in addition, increasing interest in studies at multi-year grammar schools.

Number of students completing compulsory education in multi-year grammar schools (in thousands) and their percentage of the total number of pupils completing compulsory education



Source: Institution for Information in Education.

567. The number of elementary schools increased after 1989 until 1993/94 (295 new schools were opened in that period), then stagnated for two years, and in the last two years the number of schools has declined. The increase in the number of schools was caused by fast renewal of incompletely organized schools and schools with few grades[342] (over 80 per cent of new schools are schools of this kind). At present, incompletely organized schools are 40 per cent of all elementary schools and their pupils are 8.5 per cent of all elementary school pupils. These schools facilitate the school attendance of children in small and remote municipalities and help renew the tradition of schools as one of the natural centres of municipal life. Opinions about the quality of teaching at incompletely organized schools vary; more than elsewhere, it depends on the abilities of the teacher.

Number of elementary schools in 1989/90-1997/98

	89/90	90/91	91/92	92/93	93/94	94/95	95/96	96/97	97/98
Elementary schools total	3 904	3 958	4 064	4 142	4 199	4 216	4 212	4 166	4 132
Of that:									
with only the first level	1 455	1 496	1 560	1 647	1 677	1 710	1 712	1 672	1 638
with only the second level	3	5	7	5	9	8	9	4	5
with both levels	2 446	2 497	2 497	2 490	2 513	2 498	2 491	2 490	2 489
Of that, with few grades	1 118	1 118	1 242	1 378	1 300	1 349	1 399	1 463	1 482

Source: Institution for Information in Education.

568. The percentage of non-governmental schools, i.e. private and parochial schools, is relatively low at the elementary school level. In the 1997/98 school year there were only 32 private and 19 parochial schools in the elementary school network, which is 1.2 per cent of all elementary schools; this ratio has been stable for several years. The percentage of students in non-governmental schools is also stable - under 0.5 per cent. The dense network of public elementary schools and their tradition is the most significant limiting factor for the development of non-governmental elementary schools. In addition, the decline in the population and the drain of students to multi-year grammar schools also narrows the space for non-governmental organizers of schools. They devote themselves primarily to areas which are unique in a certain way: for example, to children disabled with mild brain dysfunction, children from an environment different from the standard family type, or children who, for psychological or social reasons, are not able to adapt to conditions in standard elementary schools. An example is the Pøemysl Pitter Parochial Elementary School in Ostrava, which focuses on Romani children.

569. Students who completed compulsory education in elementary school at a lower level than ninth grade or did not complete ninth grade successfully can receive expert preparation for an occupation at a trade school, which provides training in manual skills in non-demanding fields. Preparation in them ends by completing a closing exam. Supplementing uncompleted elementary education (including special education) is theoretically possible through courses which one school in a district is always authorized to offer. The opportunity to attend these courses is, however, subject to successfully completing an application process. Persons who do not complete elementary education continue to be disadvantaged both in the opportunity to complete requalification courses and in the labour market generally.

Secondary schools

570. Most of those who complete compulsory education continue their education at a secondary school; going directly into the labour force tends to be an exception. Groups of young people with a low education level are exposed to the greatest risks in the labour market. Secondary schools provide knowledge and skills necessary for application in a selected profession or further studies. Secondary education generally begins at the age of 15 and continues, depending on the type of study, for two to six years. Secondary schools are divided into secondary vocational schools, grammar schools and secondary occupational schools.

571. Secondary vocational schools prepare students for manual labour occupations and specialized activities. Studies are completed with a closing exam. A grammar school is a universal education school, which prepares students primarily for study at post-secondary occupational schools or universities. Studies last four, six or eight years, and are usually completed with a graduation certificate (usually at the age of 19). Secondary occupational school prepares students for specialized activities. Day studies last at most four years, and are completed with a certificate. A conservatory is a special kind of secondary occupational school which prepares students for the fields of singing, dance, music or the dramatic arts. It lasts six to eight years and is completed with a certificate.

Number of secondary schools in 1993 to 1998 and the number of students in them (in thousands)

	1993/94		1994/95		1995/96		1996/97		1997/98	
	Sch.	Stu.	Sch.	Stu.	Sch.	Stu.	Sch.	Stu.	Sch.	Stu.
Grammar schools[a]	324	122	349	128	361	133	367	126	364	126
Secondary occupational (technical) schools	821	219	800	222	832	230	809	179	756	174
Integrated secondary schools	x	x	x	x	201	107	202	87	177	73

[a] Including the eight- and six-year cycles.

Sch. - number of schools, Stu. - number of students.

572. In the 1997/98 school year there were 499 secondary vocational schools in the Czech Republic, and 122,000 students prepared for occupations in them. In the 1998/99 school year there were 614 secondary vocational schools with 150,000 students. Approximately 40 per cent of them were girls.

Post-secondary occupational schools

573. Post-secondary occupational schools provide focused in-depth post-secondary occupational education and preparation. Studies last at least 2, at most 3 1/2 years, and ends with a graduation certificate. Education at these schools can be provided for a fee, the amount and payment of which the Government sets by decree, if the school is established by the State, or a municipality by a generally binding directive, if the school is established by the municipality.

574. In 1996/97 there were 158 post-secondary occupational schools with almost 15,000 students; a year later there were almost 24,000 students studying at 154 schools. In the 1998/99 school year there were 166 post-secondary occupational schools with almost 30,000 students in the Czech Republic. Approximately two thirds of students in the entire report period were girls.

Universities

575. Universities offer the opportunity to acquire a university education and an academic title. University studies take place under an accredited study programme - according to a study plan and a prescribed form of study. Studies are usually divided into two parts of three and two years. An additional three years are necessary to complete post-graduate studies. The number of universities - 23 - did not change from 1993 to 1998. However, the number of schools within universities increased from 105 in 1993/94 to 112 in 1998/99.

576. At the beginning of the report period, a total of 127,000 students studied at Czech universities, and by the end there were over 174,000 students (including foreign students). In the 1998/99 school year, approximately 46,000 students were accepted into the first year of university (not counting post-graduate study programmes), and about 12,500 students into post-secondary occupational schools. Compared to the number of 18-year-olds (150,644) this is 30.5 per cent and 8.3 per cent, respectively. This means that a total of 38.8 per cent of 18-year-olds were accepted for post-secondary education. As in past years, roughly one half of the applicants were accepted.

Universities

School year	Universities	Schools	Students	Of that, in study programmes			
				Day			Studying
				Czech citizens		Other[a]	
				Total	Women		
90/91	24	82	118 194	96 379	42 850	3 122	18 693
93/94	23	105	127 137	109 471	48 137	3 614	14 052
94/95	23	106	129 453	115 888	50 840	2 871	10 694
95/96	23	110	139 774	123 460	54 670	2 885	13 429
96/97	23	111	155 868	136 763	60 555	3 266	15 839
97/98	23	112	165 754	145 097	64 794	3 381	17 276
98/99	23	112	174 229	151 719	69 200	3 693	18 817

[a] Including those studying while working.

577. In the second half of 1998 the new Act on Universities[343] went into effect. It responds to changes which Czech universities have undergone and which reflect worldwide developments. The primary one is extensive development of university education, evoked by increased interest in university studies. The basic problem lies in how to meet high demand and yet maintain the desirable quality of education. This requirements is met through adequate diversification of university education, i.e. in addition to five year study programmes, creating a selection of professionally oriented three-year study programmes. Diversification of the university system is balanced by the institution of accreditation of all study programmes accreditation of universities' authority to conduct professorial appointment proceedings in a given field (for 2 levels: "docent" and professor). The institution of accreditation has been newly introduced in order to ensure quality in university education. The basic unit of university education is a study programme: bachelor, master or post-graduate. The bachelor study programme is aimed particularly at preparation for occupations which directly use the information and methods learned. Master study programmes are aimed at acquiring deeper theoretical information, and a post-graduate study programme is aimed at scholarly research and independent creative work.

Universities by subject groups in 1998/99
(only students with Czech citizenship)

Subject group	Students total	Of that, women	Graduates from previous school year	Of that, women
Universities total	170 536	79 699	25 960	12 934
Natural sciences	11 602	4 040	1 464	538
Technical sciences and disciplines	48 043	9 484	5 729	1 210
Agricultural-forestry and veterinary sciences and disciplines	9 700	5 005	1 416	597
Health care, medical and pharmaceutical sciences and disciplines	10 773	7 204	1 650	1 075
Social sciences, disciplines and services	86 401	51 787	15 033	9 114
Sciences and disciplines of arts	4 017	2 179	668	345

578. In 1998 the Act on Universities[344] created legislative conditions for the creation and operation of private universities. Under section 39 of this Act, a legal entity with its registered address in the Czech Republic is authorized to function as a private university if the Ministry of Education, Youth and Sports gives it government consent. Together with government consent, the Ministry also awards accreditation to study programmes.

579. Since January 1999 nine entities applied to the Ministry of Education, Youth and Sports for government consent to a private university, but only four of them met the specified requirements. These four private universities are of a non-university type, which means that they acquired the right to conduct post-secondary education in bachelor study programmes and give their graduates the academic title of “bachelor”.

580. Private universities offer post-secondary education in bachelor study programmes of primarily economic character (two of these schools offer studies in finance and management, one in hotel services). In their first year of operation, the private universities expect to admit roughly 550 to 600 applicants.

581. The access to education which private universities provide is based on the same principles as in public universities, and students in private universities have the same status as students in State universities (e.g. an entitlement to social support, health insurance, participation in the job market). Tuition is from CK 26,400 to 66,000 per academic year.

582. One of the main aims of the education policy of the Government of the Czech Republic is to ensure, by 2005, an opportunity for half of the generation of 19-year-olds a chance to enter some form of post-secondary education. This aim is connected to the decision to enable, at the same time, two thirds to three fourths of young people to obtain a certificate in secondary universal or occupational education.

Schools for minority students

583. Minority students are guaranteed the right to education in their native language by section 3 of the Schools Act. Minority education can be created up to the level of secondary schools. There are now schools with Polish as the language of instruction and one with Slovak as the language of instruction.

584. The Schools Act enables schools or classes to be formed to teach children of nationalities other than Czech in their native language, if their parents are citizens of the Czech Republic. However, the establishment and activities of these schools or classes generally always depend on the interest of the parents, who express this interest in a suitable way, generally through their civic associations. Section 3, paragraph 2, of the Schools Act states: "Minority students are provided a right to education in their native language to an extent commensurate with their national development." In the State education system, members of minorities have a right to free education in their native language. In practice this right is met within the standard State school system (schools with the language of instruction of a given minority, schools which teach the minority language as an elective subject, separate classes with the language of instruction of a minority) or in bilingual schools.

585. At present, the Human Rights Department of the Office of the Government is preparing a draft of a substantive outline of an Act on Minorities, which is to be submitted to the Government by the end of March 2000. This Act, based on existing constitutional guarantees of minority rights, will be in accordance with the European Framework Convention for the Protection of National Minorities, which the Czech Republic has already adopted, and with the European Charter for Regional or Minority Languages, for which the Czech government bodies have begun the ratification process. The new Schools Act is to set a limit of students, lower than that in schools with Czech as the language of instruction, at which the State will be required to establish a minority class, or at which it can dissolve such a class. The new Act on Protection of Minority Rights will govern the rights of members of minorities to use their language, to develop their culture and to autonomy, with the help of which they will decide, or jointly decide on issues concerning minority culture, language and education.

586. In the Czech Republic, only in the case of the Polish minority, which is concentrated in the districts of Karviná and Frýdek-Místek, is education with Polish as the language of instruction fully developed. Method management, textbook publication and methodological aids for Polish schools are arranged by the Polish Pedagogical Centre in Český Těšín, established by the Ministry of Education, Youth and Sports.

Schools and classes with Polish as the language of instruction in the 1998/99 school year

Type of school	Number of schools	Number of classes	Number of students
Kindergartens	-	38	590
Elementary schools	29	152	2 642
Secondary schools:	-	-	-
Grammar school	1	11	271
Business academy	-	-	91
Secondary technical school	-	-	73
Secondary health-care school	-	-	51
Secondary agricultural school	-	-	16

587. In view of its high degree of assimilation and dispersed residence the Slovak minority does not have a clearly formulated educational programme. There is only one elementary school in Karvina, attended by only about 50 students. In Prague the Ministry of Education, Youth and Sports created the conditions for opening a Slovak academic high school and to start teaching in the 1997/98 school year. However, the programme fell through due to lack of interest from the students or their parents. So far there is only one private Romani secondary social school in Kolin. Its aim is professional preparation of social workers from among the Roma, specialized in work with the Romani community; however, the language of instruction is Czech.

Special schools

588. Physically and mentally handicapped students have an opportunity to receive education in elementary and secondary special schools. Under section 28 of the Schools Act special schools "provide upbringing and education, through special upbringing and educational methods, means and forms, to students who have mental, sensory or physical handicaps, students with speech defects, students with multiple defects, students who are difficult to bring up and students who are ill and weakened, placed in health-care facilities; they prepare these students to be included in the working process and the life of the society. Education in these schools is equal to education acquired in elementary schools and in other secondary schools."

Number of special schools in 1991/92-1997/98

	1993/94	1994/95	1995/96	1996/97	1997/98
Number of institutions	979	975	1 027	1 002	986
Kindergartens	235	240	253	263	259
Elementary and special schools, total	700	679	693	678	667
of which, special elementary schools	-	215	218	216	210
Special schools	-	464	475	462	457
Supplementary schools	118	127	93	151	153
Grammar schools and secondary occupational schools	70	89	106	122	139
Secondary vocational schools and vocational schools	127	111	148	156	158

Note: The number of institutions does not correspond to the sum of schools at individual levels, because special schools of various levels can operate within one institution. Until the 1993/94 school year elementary and special schools were not tracked separately.

589. Under the Schools Act the deaf and blind are ensured the right to an education in their language, using sign language or Braille. Under the Act on Sign Language[345] the deaf have a right to use sign language, education using sign language and teaching of sign language. Non-hearing students of secondary and post-secondary schools are provided interpreting services for free. Integration of these students into regular classes has been tested on an experimental basis since the 1990/91 school year at some elementary schools, but it always depends on the type and extent of the student's handicap and the school's opportunities to meet his/her particular needs.[346]

590. Integrating handicapped children among healthy children is very important for socialization. However, integrating handicapped children is financially and technically demanding, and requires an individual approach by the teacher; hence, integration of children is supported by amendments to financing rules. The number of children integrated into regular classes is increasing, while the number of children in special and specialized classes established in elementary schools is stagnating. Teachers and parents accept integration of handicapped children into education in elementary schools; in addition, it had a positive effect on the work of special schools, which have more space left for children with more serious handicaps and more complicated defects.

Number of children integrated into regular, special and specialized classes
(in thousands)

	1993/94	1994/95	1995/96	1996/97	1997/98
Integrated children, total	40.1	16.6	41.3	51.2	54.4
Integrated children in regular classes	30.4	5.5	30.4	38.8	42.2
Children in special and specialized classes	9.7	11.1	10.9	12.4	12.1

Source: Institution for Information in Education.

591. On 1 September 1998 the Ministry of Education, Youth and Sports began, for a period of five school years, under section 58 of the Schools Act, experimental testing of different organizational forms of elementary education, so-called home education. In the 1998/99 school year the experiment was conducted in two elementary schools, and in three in 1999/2000. About 120 students currently make use of this education option. The Ministry established conditions for the experimental testing in approval proceedings in 1998.

592. Principles of education for mutual understanding, tolerance and friendship between all nations and all racial, ethnic and religious groups, as well as support of peace efforts, are a component of educational materials in accordance with section 5 and section 7 of the Schools Act. Education for tolerance is also supported by the Act on Radio and Television Broadcasting[347] which, in section 5, imposes on broadcasters the obligation to ensure that programmes will not promote war or depict cruel or other inhuman behaviour in a manner which makes light of them, excuses or approves them. Sections 6 to 8 of the Act govern obligations in broadcasting, advertising and sponsored programmes: advertisements must be distinguishable and clearly separated from other programmes, and broadcasters are required to ensure that the party ordering the advertisement cannot in any way influence the contents of programmes or the composition of the programme service.

593. Evaluating the role of education in the development of religious tolerance and understanding is the particular task of the appropriate State administration body, in this case the Ministry of Education, Youth and Sports. The Ministry of Culture, the body with substantive jurisdiction for Church matters, does not monitor this area regularly.

594. A problem case was the publication of the Handbook of Church History[348], which was recommended by the Ministry of Education, Youth and Sports and evoked a negative reaction from part of the public, particularly Jewish communities and evangelists. As a result of this negative reaction, and re-evaluation of the publication's contents, in March 1995 the Ministry of Education, Youth and Sports withdrew the recommendation of the publication.

595. In 1999 the executive committee of the Fraternal Unit of Baptists informed the Ministry of Culture about the incorrect characterization of members of this State-recognized and globally accepted Church in the elementary school textbook Civic Education for Grade 9.[349] The contents of the textbook passage in question was in conflict with article 13 of the Covenant - the requirement that education assist mutual understanding. According to a statement from the Minister of Education, Youth and Sports, the publisher, in cooperation with the author, will arrange amendment of the unsuitable text and before the next edition of the textbook the reworked text will be sent for evaluation to the Ecumenical Council of Churches, and again amended if necessary.

596. The Schools Act gives State elementary and secondary schools the obligation to allow religious education. The same regalation allows State-registered Churches and religious societies to establish parochial elementary and secondary schools which are subsidized by the State.[350] In the Czech Republic there is no known case of really serious systemic conflict between the rules of compulsory education and Church and religious regulations.

597. The Government of the Czech Republic pays increased attention to the coexistence of various ethnic groups in the society. This is evidenced by measures for improving protection of human rights in the Czech Republic,[351] measures related to the Romani minority,[352] the outline of government policy toward members of the Romani community, assisting their integration into society,[353] measures against movements aimed at suppressing the rights and freedoms of citizens,[354] preparation of a campaign against racism,[355] etc.

598. Special cyclical education programmes exist for elementary and secondary schoolteachers, the so-called summer schools of tolerance, at which teachers are, among others things, acquainted with the history of minorities living in the Czech Republic. Since 1992 the Ministry of Education and the Post-Secondary Schools Council have jointly established a subsidy programme, the Post-Secondary School Development Fund, whose thematic areas include education of teachers. This also includes issues related to the education of members of minorities and protection of human rights.

599. The Government of the Czech Republic formulated the principles of minority policy after the division of the Czechoslovak Federation on 1 January 1993 in the political document the Outline of the Government Approach to Minority Issues in the Czech Republic.[356] This document contains the basic political foundations of the State's minority policy, including principles governing the status of minorities and protection of their rights.

Paragraph 2 (a)

600. Under section 34 of the Schools Act, elementary education is compulsory. Compulsory education begins at the beginning of the school year which follows the day when the child reaches six years of age, and lasts nine years. In justified cases the beginning of compulsory education can be postponed (e.g. if the child is insufficiently mature mentally or physically). Under section 36 of the Schools Act, the child's legal representative is required to register a child of compulsory school age in school and see to it that the child goes to school regularly and on time. He is also required to state an opinion on the child's registration for secondary school.

601. Educating children of foreigners who are citizens of the CR, except citizens of the SR, whose education is governed by the Agreement between the Government of the Czech Republic and the Government of the Slovak Republic on Cooperation in Education of 29 October 1992, is governed by instruction of the Ministry of Education, Youth and Sports on education of foreigners in elementary and secondary schools and higher occupational schools, including special schools.[357] The instruction states that the following categories of foreigners will be educated in elementary and secondary schools under the same conditions as citizens of the Czech Republic: foreigners with permanent or long-term residence permits, foreigners who were granted temporary refuge and foreigners who are applying for or have been granted refugee status in the Czech Republic.

602. Minor and juvenile applicants for refugee status who have not completed elementary school are provided free education during the period of compulsory education, including education in institutions and protective custody. Children's centres are established in all refugee camps for children of pre-school age. The centres are equipped similarly to kindergartens.

There children can actively spend their free time, improve skills appropriate to their age and develop their language abilities. Before entering elementary school, children in refugee camps complete a course in the Czech language lasting one to three weeks.

603. Juveniles do not have access to secondary education during asylum proceedings. In the refugee camps these applicants for refugee status have an opportunity to attend a course in the Czech language.

604. Under section 3, paragraph 6, of the Decree of the Ministry of Education, Youth and Sports on Elementary Schools,[358] a school principal assigns children of foreigners to the appropriate grade after determining the level of their previous education and knowledge of the language of instruction.

Paragraph 2 (b)

605. Secondary education is accessible free of cost in all forms at schools established by the State, as indicated by the above-cited article 33 of the Charter and section 4 of the Schools Act. In private and parochial secondary schools, education is available for a fee in accordance with these provisions.

Paragraph 2 (c)

606. Availability of higher professional education arises from section 27a of the Schools Act. A student in a higher professional school partially pays for the costs of education through tuition.[359]

Number of pupils and students in individual education levels (in thousands)

School	1990/91	1993/94	1994/95	1995/96	1996/97	1997/98	1998/99
Kindergarten	352	332	339	333	317	308	303
Elementary	1 195	1 061	1 028	1 005	1 100	1 092	1 082
Grammar	111	122	128	133	126	127	126
of which, females	67	73	76	79	74	73	74
Secondary technical	191	219	247	259	205	200	192
of which, females	121	138	154	161	126	118	111
Post-Secondary occupational	-	-	-	-	15	24	30
of which, females	-	-	-	-	10	16	20
Universities (day studies)	100	113	119	126	139	148	155
of which, females	43	48	51	55	61	65	69

Source: Statistical Yearbook of the CR, 1999.

Paragraph 2 (d)

607. A system of schools - specialized and special - set forth in section 17 and sections 28 to 33 of the Schools Act,[360] is established for persons who are not capable of attaining elementary education in elementary schools or did not complete education in them.

608. While specialized elementary schools provide education equal to that of elementary schools, graduates of special schools (section 31 of the Schools Act) can obtain only "lower elementary education", enabling them to continue education only at vocational schools or practical schools which are intended only for graduates of special schools. At the end of the report period there were almost 500 such schools in the Czech Republic, offering training in over 70 non-demanding manual labour occupations. Graduates receive a certain qualification in their chosen field.

Number of students in special schools

School year	Pupils (in thousands)			Proportion of students in special schools of students in compulsory education age (%)	
	Total	Females	% females	Boys	Girls
1995/96	34 732	14 009	40.3	3.8	2.8
1996/97	35 020	14 142	40.4	3.6	2.5
1998/99	32 721	13 205	40.4	3.3	2.4

609. At present, other pupils with special educational needs whose IQ exceeds the given intelligence group are also placed in special schools. These are, for example, pupils afflicted with multiple simultaneous defects, pupils medically diagnosed as autistic or with features of autism, pupils with more serious forms of mild brain disorders, pupils with severe health disabilities (e.g. epilepsy, diabetes, allergies, etc.), pupils with learning disabilities and behavioural disorders, students from socioculturally disadvantaged environments. It often happens that special schools are attended primarily by pupils who are not able to handle elementary school material in the usual time limit.

610. The above-mentioned situation is apparent in the high number of Romani children who attend special schools and the high proportion of these children in special schools,[361] because a regular elementary school is not able to adapt its teaching methods to the specific needs of children from a different sociocultural environment or with a language barrier. Romani children are transferred to special schools based on a standard procedure, i.e. after psychological examination and with the parents' consent. However, there is a problem, not only in the tests used and the validity of their results,[362] but also in the fact that Romani parents do not consider special schools as a handicap, as they themselves are often graduates of them, and are not sufficiently informed about the consequences of their consent on the further opportunities for education and professional placement of children after completing special schools.

611. On 10 October 1997 the Committee on the Rights of the Child expressed dissatisfaction with the inadequate measures in the Czech Republic in the prevention of and fight against all forms of discrimination aimed at children from minorities, including Romani children, and

recommended to the Czech Republic that it make a greater effort to eliminate discriminatory practices against the Romani population. The Committee on the Elimination of Racial Discrimination (CERD) also gave its opinion on the matter of Czech special schools on 19 March 1998 following its examination of the initial and second periodic reports of the Czech Republic on fulfilment of the International Convention on the Elimination of All Forms of Racial Discrimination. CERD noted with dissatisfaction the marginalization of the Romani community in education. The facts that a large number of Romani children are placed in special schools, which leads to de facto racial segregation, and that the Roma are seriously under-represented in secondary and higher education are grounds for doubts about the full implementation of article 5 of the Convention on the Rights of the Child, CERD wrote.

612. The European Roma Rights Centre in Budapest also pointed out the disparity between practice and the rights guaranteed by the Czech constitutional order and the European Convention for the Protection of Human Rights and Fundamental Freedoms. It convinced the parents of 12 Romani children from Ostrava to file a complaint against the placement of their children in special schools with the Constitutional Court of the Czech Republic (filed on 15 June 1999). The complaint was also based on the fact that the parents were not adequately warned about the consequences of completing special schools instead of elementary schools in connection with further education and placement in the labour market. On 8 November 1999 the Constitutional Court rejected the complaint, saying that it did not have jurisdiction over part of the complaint; it considered part of the complaint, concerning specific decisions of principals of special schools, to be clearly unsubstantiated. The Constitutional Court recommended those parts of the complaint over which it did not have jurisdiction to be addressed to the appropriate administrative bodies of the Czech Republic.

613. In connection with this, at the end of 1999 the Parliament of the Czech Republic approved an amendment to the Schools Act,[363] which went into effect on 18 February 2000. The amendment increases the ability to cross over within the school system and permits all those who have completed compulsory education a free choice of further education and a free choice of occupation. After passage of this amendment, secondary schools will no longer accept for study only those applicants who have successfully completed elementary schools but all applicants who meet the conditions required for acceptance to the chosen trade field or secondary school. Thus, graduates of special schools[364] will also be able to be accepted to secondary schools. In connection with this, the Ministry of Education, Youth and Sports sent information to all schools offices about the procedures for accepting to secondary schools students and other applicants who have completed compulsory education but who have not completed elementary education.

614. With the aim of preventing failure in elementary school by children from socioculturally disadvantaged environments (especially Romani children), children with a different native language and other children, for example those whose compulsory education was postponed, preparatory classes in elementary schools and special schools[365] were established on an experimental basis in 1992 under section 58a of the Schools Act, and exceptionally also in kindergartens.[366] The aim of preparatory classes is to systematically prepare children for problem-free inclusion into the education process in the first grade of elementary school.

Teaching in the preparatory classes is aimed primarily at overcoming a language handicap, e.g. of Romani pupils, and it is adapted to children's individual needs. Attending preparatory classes is thus meant to remove the handicap of children who, insufficiently prepared in the family for entering first grade, fail in elementary education and are often unnecessarily put into special schools.

615. Preparatory classes are opened particularly in places with a large Romani population.[367] A high proportion of preparatory class graduates are successful at the beginning of their attendance in elementary school. In the 1998/99 school year there were 100 preparatory classes with 1,237 pupils in the Czech Republic, of which 50 classes are in elementary schools, 4 classes in elementary special schools, 37 classes in special schools and 9 classes in kindergartens.

616. For children in preparatory classes and further education, to more easily overcome communication, adaptation and other barriers, as of 1997[368] the position of a Romani pedagogical assistant can be established in a school. The assistant's work is aimed at:

- Helping children in social education, in communicating with Romani children, in individualizing teaching and in removing social and academic educational problems;
- Assisting in activities outside the classroom and outside the school;
- Cooperating with parents;
- Cooperating with the local Romani community.

617. An assistant must be over 18, may not have an entry in the criminal register and must complete a 10-day course of basic teaching skills training. An application for the creation of an assistant position is submitted by a school principal; the Schools Office approves an application and recommends it for approval to the Ministry of Education with an application for provision of funds. The statute of experimental testing of preparatory classes (ref. No. 14169/98-22) repeals the requirement for a Romani pedagogical assistant to have completed secondary education. As of 1 September 1999 there were 146 Romani assistants in schools; their wages are refunded by the Ministry of Education, Youth and Sports. The wage level of an assistant is proposed by the school principal.

618. Placement of handicapped or socially disadvantaged children in kindergartens before beginning school is very important. Institutional pre-school education primarily helps the children to adapt socially and develops knowledge and skills necessary for elementary school. Under the substantive outline of the new Schools Act, all children will have the right to a place in pre-school education in the year before beginning compulsory education.

Number of students who completed compulsory education

1996/97	Total [a b c]	136 777
	Of that, elementary schools [d]	129 501
	specialized schools [a]	6 753
	other facilities [e]	523
1997/98	Total [a b c]	132 740
	Of that, elementary schools [d]	125 348
	specialized schools [a]	6 731
	other facilities [e]	661

Source: Institution for Information in Education.

[a] Without remedial schools or a preparatory class.

[b] Data for the 96/97 school year include transfers to special schools.

[c] Special schools include grade 10 for the hearing and visually disabled.

[d] Standard and specialised classes.

[e] Facilities for institutional upbringing and protective custody.

619. On the basis of section 60 of the Schools Act an elementary school or secondary school can organize courses for obtaining elementary education for people who did not obtain or did not complete elementary education. These courses are intended for everyone who completed compulsory education in a grade lower than grade 9 (they repeated a grade) or did not successfully complete grade 9. The courses may, in accordance with the instruction of the Ministry of Education, also be attended by graduates of special schools.[369] Courses for acquiring (supplementing) elementary education provided by special schools[370] also contributed to increasing the availability of education.

Courses for completing elementary education

School year		1993/94	1994/95	1995/96	1996/97	1997/98	1998/99
Schools [a]	Total	67	126	120	64	95	204
	Elementary [b]	67	126	120	64	62	124
	Special	x	x	x	x	33	80
Courses [a]	Total	263	452	582	235	271	291
	Elementary	263	452	582	235	188	187
	Special	x	x	x	x	83	104
Pupils [a]	Total	5 060	7 266	8 504	3 384	3 375	5 234
	Elementary	5 060	7 266	8 504	3 384	2 269	3 785
	Special	x	x	x	x	1 106	1 449

Source: Institution for Information in Education.

[a] Education provided by elementary or special school. From the 1999/2000 school year, remedial schools will also be able to provide supplemental education.

[b] Courses for supplementing elementary education provided by an elementary school can also be taken at a special school, secondary occupational school, integrated secondary school, secondary trade school and trade school.

620. Supplementing education provided by elementary school (for children from special schools) and supplementing education provided by a special school (for pupils from practical schools and for those who completed compulsory education in a grade lower than grade 9 of elementary or special school or did not successfully complete grade 9) is governed by instructions of the Ministry of Education, Youth and Sports.[371] A condition for accepting an applicant into a course is completion of compulsory education and a recommendation from the area pedagogical-psychological consulting office. Before the beginning of a course, the school verifies the applicant's extent of knowledge and level of ability, in order to evaluate whether his/her full participation in the course is desirable or whether he/she can acquire the knowledge necessary for final examinations by independent study. Courses for supplementing elementary education last one school year. Financial expenses for organization of the courses are paid, under the Act on State Administration and Local Administration in Education, by the authorized Schools Office with jurisdiction for elementary and special schools.

621. The school system also sees to the creation of the best possible conditions for educating children with severe medical disabilities. Amendments to the Schools Acts of 1995 reacted, among other things, to one of the most difficult tasks in the National Plan for Measures to Reduce the Negative Consequences of Medical Disability:[372] "For especially severely disabled children whom the Schools Act permits to be released from compulsory education, to arrange education, in the wider sense of the word, so that these children too can exercise their right to an education."

622. The previous provisions of section 37 of the Schools Act governing release from compulsory education, with the formulation "the national committee shall release from compulsory education a child which, due to its mental condition, is not capable of education", was replaced in the draft new Schools Act with a new text, under which "the director of the Schools Office may release a severely medically handicapped child from compulsory education for a definite period on the basis of expert evaluation and consent of the child's legal representatives. He shall simultaneously specify a form of education which corresponds to the child's mental and physical abilities."

623. In 1995, the amendment to the Schools Act enabled children with severe mental disability, before entering remedial schools or before their release from compulsory education, to receive preparation for education of one to three years (the so-called preparatory level of remedial schools). Special classes for autistic pupils and special classes for the deaf and blind were also established in this way.

624. In 1998 the Ministry of Education, Youth and Sports expanded, by decision of the Deputy Minister[373] the opportunity to supplement elementary education at the level of elementary school[374] or special school[375] for people with more severe medical disability. Remedial and special schools implement this decision primarily through courses for acquiring education provided by a special, or remedial school as an experiment under section 58a of the Schools Act.

Paragraph 2 (e)

625. An important international cooperation programme is the Leonardo da Vinci programme,[376] which is aimed at supporting the development of quality, innovation and a European dimension in the system and practice of occupational education through national educational projects. Projects are judged and evaluated by the European Commission. The condition of international cooperation by partners is always important - the applicant must find two partners for implementation of its project, including at least one from the European Union. In addition to educational institutions, companies, labour offices, social partners (i.e. trade unions and employers' organizations) and non-profit non-governmental organizations can also apply for support from the programme. The Czech Republic has participated in the programme since the end of 1997.

626. In the report period, participation in the Tempus PHARE programme was important for Czech post-secondary schools; this programme paid for study stays of students, teachers and young scientific workers at foreign universities. During 1999 this cooperation with most European partners was transferred to the Socrates programme.

627. In 1994, with the support of the European PHARE programme, the Minister of Labour and Social Affairs established the National Education Fund, which was transformed in 1999 into a public service society. Its task is to support the transformation of the society and the economy and to support the process of European integration by development of human resources in the Czech Republic, and also to contribute to development of life-long education by supporting all forms of further education.

628. The operation and development of the school system is the responsibility of the Ministry of Education, Youth and Sports which is, in accordance with section 7 of the so-called Competence Act,[377] the central body of State administration for pre-school facilities, school facilities, elementary schools, secondary schools and post-secondary schools and also for science policy, research and development, including international cooperation in that area.

629. Responsibility for the creation and development of the school system is ensured by individual levels of proceedings under the Act on State Administration and Local Administration in Education which, in section 3, defines the duties of school principles, in sections 5 to 11, the duties of the Schools Office, in sections 12 to 13c, the duties of the Ministry of Education and in section 14 and section 15, the duties of the municipality. Through designated bodies of State administration in education, a founder of a school submits, in accordance with section 13a, paragraph 2, of the Act, as part of an application for classification or change in classification of a school, an educational outline to the Ministry of Education, Youth and Sports for approval. Ensuring development of the school system is also elaborated in section 11 of the Schools Act by designating certain tasks for the founders of secondary vocational schools related to their responsibility for the training of young people for occupations, the duty to create positive conditions for developing students' abilities and initiative, and the tasks involved in dissolving, dividing or merging such schools.

630. Financial and material security of secondary school students, which also includes scholarships for students at academic grammar schools and secondary occupational schools, is

addressed by the Schools Act. Under section 24, paragraph 2, students at academic grammar schools and secondary occupational schools can be provided a scholarship and material security, taking into account their social situation and success. Material security includes, in particular, food and housing. A scholarship and material security can be provided from State budget funds or from the funds of organizations. Security can also be provided during vacation periods.

631. Creation of material conditions for teachers is implemented through financial resources allocated by the Ministry of Education for schools it establishes in accordance with section 12 of the Act on State Administration and Local Administration in Education, or in accordance with section 12 of the Schools Act. Wages of teachers and school workers in State schools are governed by the Act on Wages and Renumeration for Stand-by Work in Organisations Funded from the Budget and Certain Other Organisations and Bodies.

632. Wages of education workers are lower than the average wage of public sector employees (see text and table on article 7 of the Covenant), which is contrary to their average education level (a condition for working as a teacher at all levels is completed post-secondary education). This fact is often cited as the reason for the feminization of education and the reason why many graduates of schools of pedagogy leave to work outside the education field. The advantages of the relatively shorter work time and longer vacations do not sufficiently compensate for the lower wage level. However, the relatively low wage level is not a problem only in education, but also other branches of the public sector (health care, culture, State administration, especially at the local level, etc.).

633. A government regulation,[378] sets the conditions and levels of subsidies to private schools, pre-schools and school facilities.

Expenditures on education, share of GDP and of state budget expenditures
(in billion CK)

	1993	1994	1995	1996	1997	1998
Gross domestic product[a]	1 002.3	1 148.6	1 348.7	1 532.6	1 649.5	1 770.7
Education expenditures[b]	53.6	63.2	71.9	81.7	78.9	80.3
Of that, from the budget of:						
Ministry of Education	41.1	43.2	49.3	63.8	62.8	63.9
Ministry of Economy	-	5.7	6.4	-	-	-
Ministry of Health	0.7	0.8	0.9	-	-	-
Ministry of Agriculture	0.7	1.4	1.5	1.8	1.6	1.5
Ministry of Defence	.	.	.		0.8	1.0
Municipalities	11.1	12.1	13.7	16.1	13.7	13.9
Of that, expenditures for social security and health insurance	6.8	9.1	10.5	11.8	12.1	12.3
% of GDP	0.7	0.8	0.8	0.8	0.7	0.7
Expenditures for education as % of GDP	5.3	5.5	5.3	5.3	4.8	4.6
State budget expenditures, total	356.9	380.1	432.7	484.4	524.7	566.7
Expenditures as % of state budget	15.0	16.6	16.6	16.9	15.0	14.2

[a] New method of calculating GDP as of 1994.

[b] Public expenditures for education, i.e. expenditures of the Ministry of Education, municipalities and other ministries, including expenditures for private and parochial schools, without expenditures of private institutions, students and parents.

Paragraphs 3 and 4

634. The school system of the Czech Republic also includes schools other than those established by the State - parochial and private schools, which pupils or their parents are free to choose. If the legal representatives of pupils intend to choose schools other than schools established by public bodies, they are able to do so under section 57a and b of the Schools Act. Section 57c of the Act guarantees the equality of education at all schools regardless of who established them. The above-mentioned provisions also create a certain degree of independence for these schools, while preserving State inspection of the level of education provided, so that this education is in compliance with the State requirements for the education level of the population.

635. Equality of education is also guaranteed by the general aims of upbringing and education, which are declared by the substantive outline of the new Schools Act. The basic aim is development of an individual's personality, commensurate with his age, by teaching appropriate knowledge and skills for personal and civic life, the culture and values achieved in the development of the society, respect for European cultural traditions and values such as tolerance, freedom and responsibility, the principles of democracy and the value of human rights. These general educational aims are applied to education and upbringing in our schools at all levels, i.e. elementary, secondary and post-secondary occupational schools or other school facilities, and equally to schools established by any party.

636. The aims of education and upbringing are part of the educational programmes of individual levels and types of schools. In the substantive outline of the new Schools Act and the statute being prepared, there are special passages concerning protection of the rights of children, students or their legal representatives, while respecting all provisions of international treaties by which the Czech Republic is bound: the Convention on the Rights of the Child, the European Convention for the Protection of Human Rights and Fundamental Freedoms, the Convention on the Elimination of All Forms of Discrimination against Women, etc. The draft Act also governs the rights and obligations of schools and school facilities and students or their legal representatives, guarantees the right to free education in elementary and secondary schools established by the State and the right to religious education in an extent and under conditions set forth by the Act, guarantees equal rights to all without regard to gender, religion, race, etc. The draft Act also contains a prohibition on all forms of discrimination and a provision on protection and observance of the rights and obligations of every child/pupil/student regardless of gender. Related implementing regulations and decrees will be prepared or amended in the same spirit.

637. Non-State schools are included in the network of schools of the Ministry of Education if they meet the requirements specified in section 13b of the Act on State Administration and Local Administration in Education. Conditions for their inclusion in the network and the resulting entitlement to financial support from the State include approval of teaching plans and teaching outlines, or educational aims, by the Ministry, which guarantees compliance with State requirements.

638. In this connection, however, it must be pointed out that the conditions set by law for registering Churches (10,000 members) do not permit Church schools to be established nor, within compulsory education, claims to be made for observance of the internal norms of an

unregistered Church or religious society.[379] Church and religious societies may, however, to fulfil their missions teach religion and establish their own schools under conditions set out by generally binding legal regulations. The right of individuals or other legal entities to establish private schools under the Schools Act is not affected in any way by the conditions set for registering Church and religious societies.

639. Under the government regulation which sets the conditions and levels for providing subsidies to private schools and facilities,[380] these schools are entitled to state subsidy if they are included in the network of schools and conclude at the end of November each year an agreement with the Schools Office on provision of a subsidy for the next school year. The State provides a subsidy for financing non-investment expenditures related to upbringing and education and to the regular operation of schools. The amount of a subsidy is set according to the actual number of students as a percentage of a normative amount per pupil in schools established by the State. It is increased if the school is attended by pupils with medical disabilities, the school received a good evaluation from the Czech Schools Inspection[381] and in other cases set out in the decree. For elementary private and parochial schools the basic subsidy is 60 per cent of the normative amount, and for central schools it is 40 per cent of the amount for a State school pupil.

640. The quality of education in all types of elementary and secondary schools, without regard to who established them, is evaluated and inspected by the Czech Schools Inspection.

Parochial and private schools - number of schools, students and teachers

	1990/91	1994/95	1995/96	1996/97	1997/98	1998/99
Elementary schools						
Schools	3	53	55	50	51	55
Pupils	472	4 137	4 354	4 718	5 281	5 795
Teachers	-	427	500	500	549	589
Grammar schools						
Schools	2	73	79	84	64	78
Pupils	162	13 576	15 124	14 488	14 026	13 605
Teachers	37	2 058	2 353	2 212	1 965	1 842
Secondary technical schools						
Schools	4	292	313	328	285	255
Pupils	160	44 483	50 446	37 657	31 775	25 570
Teachers (both full and part-time)	42	7 058	8 005	6 469	4 974	4 295

Source: Statistical Yearbook of the CR, 1999.

Article 14

641. This article does not apply to the Czech Republic, as it does ensure compulsory, elementary education free of charge. This right arises from the above-mentioned article 13 of the Charter and section 4, paragraph 1, of the Act on the System of Elementary Schools, Secondary Schools and Post-Secondary Occupational Schools (the Schools Act). Free compulsory education is implemented in the Czech Republic in accordance with article 33 of the Charter and section 4, paragraph 1, of the Schools Act.

Article 15

642. The basic instrument for protection of the rights named in article 15 of the Covenant is the Charter of Fundamental Rights and Freedoms.

Article 15 of the Charter reads:

"(1) The freedom of thought, conscience, and religious conviction is guaranteed. Everyone has the right to change his/her religion or faith or to be non-denominational.

"(2) The freedom of scholarly research and of artistic creation is guaranteed.

"(3) No one may be compelled to perform military service if such is contrary to his/her conscience or religious conviction. Detailed provisions shall be laid down in a law."

Article 17 of the Charter:

"(1) The freedom of expression and the right to information are guaranteed.

"(2) Everyone has the right to express his/her views in speech, in writing, in the press, in pictures, or in any other form, as well as freely to seek, receive, and disseminate ideas and information irrespective of the frontiers of the State.

"(3) Censorship is not permitted.

"(4) The freedom of expression and the right to seek and disseminate information may be limited by law in the case of measures that are necessary in a democratic society for protecting the rights and freedoms of others, the security of the State, public security, public health, or morals.

"(5) State bodies and territorial self-governing bodies are obliged, in an appropriate manner, to provide information with respect to their activities. Conditions therefor and the implementation thereof shall be provided for by law."

Article 25 of the Charter:

"(1) Citizens who constitute a national or ethnic minority are guaranteed all-round development, in particular, the right to develop, together with other members of the minority, their own culture, the right to disseminate and receive information in their native language, and the right to associate in national associations. Detailed provisions shall be set down by law.

"(2) Citizens belonging to national and ethnic minority groups are also guaranteed, under the conditions set down by law:

(a) the right to education in their own language;

(b) the right to use their own language when dealing with officials;

(c) the right to participate in the resolution of affairs that concern national and ethnic minorities."

Article 34 of the Charter:

"(1) The rights to the fruits of one's creative intellectual work shall be protected by law.

"(2) The right of access to the nation's cultural wealth is guaranteed under the conditions set by law."

643. The concept of cultural wealth is not defined further. It is understood that cultural wealth is, on the one hand, so-called cultural heritage, i.e. cultural values which were created in the past, and on the other hand cultural values, e.g. artistic works and performances which are created in the present.

The right to take part in cultural life

Legal framework

644. The Czech Republic is a State party to the following international conventions concerning culture:

Convention for the Protection of the World Cultural and Natural Heritage;[382]

Convention on Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property;[383]

Convention for the Protection of Cultural Property in the Event of Armed Conflict and the Protocol to it;[384]

Convention concerning the Exchange of Official Publications and Government Documents Between States and the Convention concerning the International Exchange of Publications;[385]

Agreement on the Import of Educational, Scientific and Cultural Materials and the Protocol to it.[386]

645. Individual areas of cultural creative work and life are also regulated by a number of laws, which can be grouped by their focus on instruments protecting cultural heritage[387] and living culture.[388]

State government and local self-government in the area of culture

646. In the Czech Republic's State administration system, matters concerning culture are, under the Act on Establishing Ministries, in the jurisdiction of the Ministry of Culture.[389] The Ministry of Culture is the State central administration body for art, cultural educational activity, cultural monuments, for matters of Churches and religious societies, for press matters, including publication of non-periodical printed matter and other information media, for radio and television broadcasting, unless a special act provides otherwise, and for implementing the Copyright Law and for production and trade in the field of culture. Under this Act, the Ministry of Culture is also responsible, commensurate with its substantive jurisdiction, for obligations arising from international treaties to which the Czech Republic is a party and from membership in international organizations. The activity of the Ministry of Culture grows out of a basic document, the outline of cultural policy in the Czech Republic, the "Strategy for More Effective State Support for Culture".[390]

647. The Ministry of Culture is the founder of 81 large subsidized organizations (as of 31 December 1999), which provide citizens access to cultural wealth, e.g. museums and galleries, specialized organizations for historical preservation, libraries, the National Film Archive, the National Literature Monument (national literary archive), the Czech Philharmonic, the National Theatre, the Institute of Folk Culture, the Theatre Institute, the Information and Consulting Centre for Local Culture and other institutions.

648. The Ministry of Culture, in accordance with the "Strategy for More Effective State Support for Culture", selectively - through grants and programmes - financially supports cultural and cultural education projects of natural persons and legal entities, e.g. civic associations, Churches and religious societies, cultural institutions, of which it is not the founder and, in exceptional cases, also business entities. It also plays the role of a central State administration body in matters of historical preservation and participates in financing scientific and research activities in the field of culture and cultural wealth.

649. District offices, the basic territorial unit of State administration in the Czech Republic, also have a certain jurisdiction in the field of culture, established by the Act on District Offices.[391] District Offices are the founders of other cultural facilities (e.g. district museums and galleries and public libraries). They play an irreplaceable role in the protection of historical monuments, both real estate and objects.

650. An important role in care for culture falls to municipalities which, within their independent jurisdiction, may establish (and dissolve) cultural institutions and finance them, or contribute to cultural projects of other legal entities, e.g. civic associations. The Act on Municipalities[392] states that the independent jurisdiction of municipalities includes tasks in the field of culture, with the exception of the performance of State administration. Municipalities

can also financially participate in the renovation of cultural monuments located in their territories, including those which they do not themselves own, and they have certain powers in zoning and protection of cultural monuments.

Financing

651. The basic legal instrument in the field of public budgets, which also applies to financing culture, is the State Budget Rules.[393] Other laws also include the Act on the State Budget, which is approved annually by Parliament, and certain substatutory regulations of the Ministry of Finance of the Czech Republic.

652. State expenditures for culture are included in the budget chapter "The Ministry of Culture". This chapter finances the activities of subsidized organizations founded by the Ministry of Culture and also provides contributions to owners of cultural monuments for their renovation and to municipalities and cities for renovation of those parts of them which were declared city (village) historical reservations or zones under valid regulations. A smaller part of the funds under this chapter go for financial support allocated on the basis of grants and designated for implementation of non-profit cultural projects submitted by natural persons and legal entities not founded by the Ministry of Culture. In addition, funds from this budget chapter also provide contributions to Churches and religious societies, subsidies for science and research and certain other special activities aimed at supporting culture.

653. Expenditures for culture also come from public resources, which are included in a separate national budget chapter, "Culture in the Jurisdiction of Territorial Bodies". These are funds which are expended for culture by lower levels of State administration (district offices) and self-government authorities (municipalities and cities).

Expenditures for culture from the State budget
(in thousands of CK)

Year	Chapter "Ministry of Culture"	Chapter "Culture in the Jurisdiction of Territorial Bodies"
1993	2 405 635	3 955 984
1994	2 971 808	5 187 325
1995	3 320 429	6 400 000
1996	3 529 776	7 500 000
1997	3 776 307	7 648 087
1998	4 397 464	8 018 090

Source: The Ministry of Culture.

654. Funds to support culture are also provided by the private business sector as part of its sponsorship and donation activities, but statistical data are not yet available. There are statutory advantages to supporting these activities, both for natural persons and legal entities, within the

tax regulations.[394] The Ministry of Culture estimates that gifts from sponsors to cultural institutions founded by public administration bodies are less than 2 per cent of the total expenses for their activities.

655. Of the over 5,000 foundations operating in the Czech Republic until 1998, roughly 250 engaged in cultural activities. However, most of them did not have their own assets from the income of which they could support cultural activities, and so concentrated on acquiring funds for their own projects from other sources, including public ones. In view of this fact, in 1997 a new Act on Foundations and Foundations Funds was passed,[395] which governed the creation of funds, and in 1998 secured the transformation of the existing ones to the effect that a necessary condition for the creation of a foundation is that it have its own registered capital, in a minimum amount set by the Act and from the income of which cultural activities and projects are supported. This Act also enabled the creation of foundation funds which do not have to have any assets and which operate as fund-raising foundations. Many foundations active in the cultural field were transformed to foundation funds. The obligations which the new Act imposes on foundations and foundation funds also ensure greater transparency of their financing and activities.

Institutional structure

656. Museums, monuments and galleries (museums of visual arts). The activities of museums and galleries are governed by a special Act on Museums and Galleries and the Act on the National Gallery in Prague.[396]

657. The Ministry of Culture is the founder of 44 museums and galleries; central bodies in other ministries are founders of an additional 12 museums and galleries. Lower territorial State administration bodies (district offices) have founded another 81 museums, galleries and monuments,[397] often with permanent local branches. In addition, another 175 museums, galleries and monuments are founded by cities and municipalities. All these galleries are open to the public.

658. In addition to the above-mentioned museums and galleries there are also museums founded by business entities (35), Churches and religious societies or civic associations (20), and private individuals (13).

659. In 1998 the Ministry of Culture spent CK 442,280,000 on the operations and activities of museums and monuments it established, and CK 368,073,000 on galleries (art museums). Most museums are regional (this is also true of museums established by cities and municipalities, especially in cities with over 50,000 inhabitants) and their collections are multidisciplinary.

660. The Czech Republic has a specialized museum on the Roma minority - the Museum of Romani Culture in Brno - and a museum of the history and culture of the Polish minority - Těšín Region Museum.

661. Public libraries. The activities of public libraries are governed by the Act on a Unified Library System (the Library Act).[398]

662. Their founder is the Ministry of Culture; libraries are also founded by district offices, cities and municipalities. The founders of large public expert libraries also include other central State administration bodies, primarily the Ministry of Education, Youth and Sports, the Ministry of Agriculture and the Ministry of Health. The libraries of universities and research and scientific institutions are also very important; they are, of course, specialised for the needs of students, schoolmasters and scientists, and cannot be considered fully public libraries.

663. In 1998 the Czech Republic had a total of 7,319 public libraries (including their branches).

664. The Ministry of Culture establishes and finances, in addition to the National Library of the Czech Republic (the central elements in the national library system) and Knihovny a tiskárny pro nevidomé K.E. Macana (Libraries and Printers for the Blind of K.E. Macan), another nine State scientific libraries. It is indirectly the founder of other large public libraries which operate in subsidized organizations which it established (e.g. the National Museum library, the National Museum library, the National Gallery library, the Museum of Decorative Arts library, the National Literature Monument library, etc.).

665. The National Library of the Czech Republic has a special position in the public library system. With the size of its holdings (some 6 million book units) it is the largest, as well as one of the oldest libraries in the Czech Republic. The value of its holdings classifies it among the most important European and world libraries, and it is part of the UNESCO "World Memory" programme, aimed at saving and making widely accessible the most valuable parts of the written heritage through digitalization.

666. State scientific libraries are the central libraries at the regional level and they are located in the natural regional centres. Therefore, in addition to their usual functions, i.e. educational, informational and cultural, they also play a consultative role for smaller public libraries in their areas.

667. All large public libraries are connected to research and development programmes, both central and single ministry. Public libraries also organized many informational and training events, over 40,000 annually (lectures, short-term exhibitions, etc.).

668. The National Library of the Czech Republic, the Moravian Land Library and the State Scientific Library in Olomouc are statutory recipients of so-called compulsory copies of each non-periodical publication published in the Czech Republic; the remaining State scientific libraries are recipients of required copies of non-periodical publications if they are published in their territorial area. Until 31 December 1992 the National Library and all State libraries were obligatory recipients of copies of periodicals published anywhere in the Czech Republic.

669. Expenses for purchases of library holdings in 1998 totalled CK 181,856,000.

670. Public libraries also have the task of securing citizens' right to information and equalizing the state of Czech information science and public libraries with that in the developed countries. Since 1995 the Ministry of Culture has announced an annual special subsidy programme for public libraries, which has two aims:

(a) To support the connection of libraries in the network (e.g. Internet connection and improving the existing connection); and

(b) To support the creation and accessibility of data in the network (e.g. projects aimed at production and presentation of primary and secondary information sources in electronic form).

The total subsidy for the Program for Development of Library Information Networks (RISK) in 1998 was CK 34 million.

671. Cinematography. Development of cinematography is governed by two laws: the Act on the State Fund of the Czech Republic for Support and Development of Czech Cinematography[399] and the Act on Certain Conditions for Production, Dissemination and Archiving Audio-Visual Works.[400]

672. The Act on the State Fund of the Czech Republic for Support and Development of Czech Cinematography sets basic conditions for creation of funds from which contributions can be made for selected Czech film production projects, and also sets binding rules for the financing. The main source for this fund is income from a surcharge on cinema admissions and income from commercial use of Czech film works created from 1965 to 1991, i.e. a period when film production was still fully financed from the State budget. Funds from these films can therefore be considered a State contribution for the benefit of the fund.

673. The public station Czech Television plays an important role in the creation of contemporary original Czech film works; it co-produces roughly 10 feature-length films a year. However, its financial resources are independent of the State budget (they consist of concession fees, advertising income, etc.), so in this case we cannot speak of State subsidy of film production.

674. The Act on Certain Conditions for Production, Dissemination and Archiving Audio-Visual Works governs conditions for the development of Czech cinematography in a market environment. Under this Act a specialized institution of the Ministry of Culture for film heritage was created - the National Film Archive. Its mission is gathering, protecting, studying and using audio-visual archive materials, particularly those which are part of the national cultural heritage and document the creation and development of the film industry. The producer of a Czech audio-visual work is required to offer for sale, in writing, to the Archive two new undamaged copies of a Czech audio-visual work, within 60 days of its first publication.

675. In 1998 the Czech Republic had more than 700 permanent cinemas, 36 cinema-cafes and 110 permanent summer cinemas and 50 travelling cinemas operating seasonally. A total of 150 feature-length acted films premiered, including 14 Czech-produced films.

676. Every year the Karlovy Vary International Film Festival is held in the Czech Republic; it is partially supported by the Ministry of Culture and Karlovy Vary. Its presenter and organizer is an independent entity. In addition, other, smaller international festivals are held in the

Czech Republic which are specialized in, for example, films for children and young people (Zlín), films on the theme of environmental protection and protection of cultural monuments (the Ekofilm festival in Český Krumlov), etc.

677. Theatre. Theatres include:

- Theatres established by central State administration bodies - the Ministry of Culture establishes repertory theatres with their own acting companies (three, but only two are subsidised by the Ministry; the third - Laterna Magika - is a financially self-sufficient theatre);
- Theatres at universities with an arts focus, which prepare young professionals (three public stages); they are financed from the State budget within entitlement subsidies for arts schools;
- Theatres established and financed by other public administration bodies, i.e. cities and municipalities, which are repertory theatres and have their own acting companies - a total of 40 - and theatres established and financed by cities but without their own acting companies;
- Theatres established and financed by district offices - repertory theatres with their own acting companies - a total of three;
- Independent theatrical companies and groups, existing on the basis of grants and other support from various sources (the State, a city, city district, sponsors, foundations);
- Theatre productions and groups not supported from public funds (private theatres, musical productions, etc.).

678. The Ministry of Culture is the founder of a special professional institution - the Theatre Institute, a scientific and expert centre for theatre studies and for publishing specialized periodicals and theatre literature, maintaining special databases, organizing a unique international review of set design - the Quadrennial - in Prague, etc.

679. The most important theatre festivals in the Czech Republic with international participants include the Theatre on the Border festival, which is annually devoted to Czech, Polish and Slovak theatre work and is held in a region with a concentrated Polish and Slovak minority, the Theatre of European Regions festival in Hradec Králové and "Festival 98". Specialized festivals include the "Tanec Praha" (Dance Prague) festival, focused on contemporary ballet and movement theatre, and the "Spectaculo Interesse" for professional puppet theatres.

680. Music. The Czech Republic has 16 professional permanent symphonic orchestras, of which two are established and financed directly by the Ministry of Culture, three are established by private law entities on a business basis (two with considerable State support), one is part of Czech Radio and 11 are established by cities. In addition, the Czech Republic has a number of symphonic chamber orchestras without direct State or public support which are, however,

indirectly supported through subsidies to concert and music festival organizers. Until 31 December 1999 the Ministry of Culture was also the founder of a subsidized organization, the International Prague Spring Music Festival, which organized the international music festival of the same name.

Equal access to culture

681. There is no discrimination in entry to cultural institutions in the Czech Republic. On the contrary, certain population groups are supported by discounts, e.g. children and young people, students, seniors, families with children, etc.

682. Traditionally the Czech Republic has a good environment for non-professional artistic activities, as these activities have not only a general culturally educational and developmental role, but also lead to better understanding of professional art (they make educated audiences). At the same time, these activities are an important instrument for integrating people into local societies, are a meaningful leisure time activity, and are an important preventive factor for socially pathological behaviour, particularly among young people and children.

683. Non-professional activities are supported primarily through competitions announced by self-government bodies of cities and municipalities or through permanent cultural institutions which these bodies have founded (e.g. local cultural buildings and centres, city libraries, elementary arts schools, etc.).

684. The Ministry of Culture's budget supports primarily national review and competitions of non-professional artistic groups and individuals, in a grant competition announced annually to support event organizers. In 1997 the Ministry spent CK 5,347,000 for these events (including reviews and folklore festivals); in 1998 the figure was CK 5,638,000.[401]

685. In addition, the Ministry of Culture is the founder of a special subsidised organization - the Information and Consulting Centre for Local Culture. This centre provides methodological and organizational assistance to cultural events organizers, and also provides financial assistance to some of them.

Cultural facilities

	1994	1995	1996	1997	1998
Theatres	83	99	104	109	99
permanent State theatres	83	81	81	89	80
permanent non-State theatres	-	18	23	20	19
total audiences (in thousands)	4 431	5 247	6 019	5 957	5 733
State musical ensembles[a]	15	-	17	17	18
audiences (in thousands)[b]	335	-	377	388	439
Museums	229	234	237	263	274
visitors (in thousands)	7 089	7 482	7 373	6 857	7 119
Galleries	37	37	37	37	43
visitors	1 362	1 432	1 660	1 418	1 791

	1994	1995	1996	1997	1998
Observatories and planetariums	24	23	25	26	26
visitors	410	413	447	491	480
Zoos	14	15	15	15	15
visitors	2 742	2 925	3 309	3 415	-
Castles, palaces, historical building monuments	113	118	151	160	163
visitors	5 201	5 935	8 119	7 952	8 256
Libraries	6 321	6 253	6 198	6 309	6 205
Public libraries	6 238	6 169	6 123	6 235	6 131
registered readers (in thousands)	1 131	1 277	1 287	1 284	1 331
State scientific libraries	11	10	10	10	10
registered readers (in thousands)	299	151	152	148	148
University libraries	72	74	65	64	64
registered readers (in thousands)	191	230	243	225	225

Source: Statistical Yearbook of the CR, 1999.

[a] Data were not determined in 1995.

[b] Concerts or performances at own cost only.

Culture of national minorities

686. Development of minority cultures is guaranteed by the Charter and the Framework Convention for the Protection of National Minorities. Other domestic legal regulations do not address the development of minority culture. Support for the development of minority culture is provided primarily by the Ministry of Culture and individual cities and municipalities. The support is concentrated primarily on public libraries, publication of books and other non-periodical publications, theatre and support for non-professional (amateur) artistic events, including folklore. The Ministry of Culture primarily supports national minority organizations (civic associations).

687. For these purposes, the Ministry of Culture has, since 1993, announced an annual competition for cultural projects of these organizations, in which the chosen projects are allocated a subsidy from the CR State budget. Evaluation and selection are done by a special consulting group, which is composed of representatives of minorities. Roughly 60 projects a year are evaluated in this way. In 1997 the Ministry of Culture spent CK 9,111,000 to support these projects, and in 1998 the figure was CK 10,056,000.[402]

688. Cities have a similar process: they announce regular competitions for support of projects in non-professional cultural activities and projects, i.e. including projects submitted by national minority civic associations.

689. Periodicals of national minorities are supported by the Ministry of Finance on the basis of discussion and approval by the Czech Republic Government Council for National Minorities.

The handicapped

690. The Czech Republic has exceptional interest in developing the cultural activities of handicapped citizens, as their inclusion is also an important instrument for overcoming their social isolation. At the same time, these activities are an important component of therapy. The handicapped are approximately 10 per cent of the population.

691. For this purpose, the Government approved the National Plan for Equalizing Opportunities for Handicapped Citizens. In the framework of the Plan the Ministry of Culture concentrates on two basic areas of assistance, assistance in making cultural institutions accessible to non-mobile persons through technical means and support of handicapped people's own cultural activities.

692. In 1997 the Ministry of Culture spent CK 5,670,000 for approximately 80 projects, in 1998 the figure was CK 4,814,000 for a similar number of projects. Funds which come from the budget of the Ministry of Culture in this way are a supplement to funds which cities and municipalities and private sponsors donate for these purposes.

Cultural heritage

693. Cultural heritage is a part of cultural wealth. In practice the Czech Republic distinguishes between protection of objects and real estate or buildings of cultural wealth and between protection of cultural monuments, items with cultural value and documents.

694. Protection of cultural monuments, which are a most valuable part of the cultural heritage, is ensured by special laws. They also set the level of State administrative authority in caring for this part of the cultural heritage and ensure that renovation, repairs, maintenance or reconstruction of cultural monuments do not diminish their cultural value.[403] For these purposes the State administration has a network of expert (scientific) workplaces established by the Ministry of Culture (historical preservation institutes) which give the relevant State administration bodies their expert recommendations and opinions on giving permission for conservation, repairs or reconstruction of monuments. These expert organizations also give their opinions and recommendations to investors, free of charge. The Ministry of Culture has established eight of these organizations, which have territorially limited jurisdiction.

695. The historical preservation institutes are also the operating managers of certain buildings which have been declared cultural monuments and are publicly accessible. They manage and operate 70 buildings, including castles and palaces, and the collections and furnishings stored in them. In addition, the Ministry of Culture is the founder of three other independent managers of castles and palaces which manage and operate other buildings.

696. In addition to the above-mentioned organizations, the Ministry is also the founder of three institutes for archaeological site preservation and the State Historical Preservation Institute, which is the central expert organization that directs all the other (regional) historical preservation institutes and archaeological institutes. It is also authorized by the Ministry to maintain a Central Monument List, and it prepares specialized planning materials for the Ministry.

697. There are certain other expert organizations in the cultural heritage field which are not established by the Ministry of Culture. Primarily, there is the Archaeology Institute of the Academy of Sciences of the Czech Republic, which conducts basic archaeological research (archaeological institutes established by the Ministry of Culture conduct primarily so-called "rescue" research, i.e. research in areas where investment activity has been started).

698. In terms of finance, preservation of cultural monuments is primarily the responsibility of the owner. However, the State can contribute towards increased expenses for renovation of cultural monuments, generally up to 50 per cent, and in cases of national cultural monuments (the category of the most important monuments, which are declared national monuments directly by a special resolution of the Government of the Czech Republic) up to 100 per cent.

699. For this financial assistance, the Ministry of Culture has several programmes, based on the principle of multiple-source financing. However, contributions from the programmes are not an entitlement. They are, for example:

- The Program for Rescuing the Architectural Heritage (intended for assistance in renovation and reconstruction of individual buildings);
- The Program for Renovation of Church Cultural Monuments (intended for partial compensation of expenses for renovation of religious cultural monuments, real estate as well as objects, owned by registered Churches and religious societies);
- The Program of Regeneration of Urban Historical Preservation Areas and Zones (intended to give priority assistance to cities in rescuing and renovating areas which were declared historically protected);
- The Program for Support of Rescue Archaeological Research;
- The Program for Restoration of Cultural Monument Objects, and certain other programmes.

700. The concept of objects with cultural value is relatively new and was not legally defined until 1994, in the Act on Sale and Export of Objects of Cultural Value[404] aimed, under the pressure of criminal activity, at cultural objects which are not declared to be cultural monuments but which have cultural value. This Act enumerates the kinds of objects to which it applies, which are subject to a special regime for permanent export abroad. Objects which have been declared cultural monuments by the Ministry of Culture cannot be exported permanently abroad at all. However, they can be taken abroad for a definite period, with the express consent of the Ministry of Culture.

701. Above the framework of this Act, regulating the export of valuable cultural objects abroad, public administration bodies have no other means of control of these objects, with the exception of objects which are a component of State collections in museums, monuments and galleries, or libraries (valuable manuscripts, incunabula, etc.) or archives. They are then subject to a preservation regime which is provided by special legal regulations governing the activities of museums and galleries, public libraries and archives.

702. The third area of objects which are part of the cultural heritage are documents. Their protection is provided by a special Act on Archives. Most publicly important documents are stored in State archives, which fall under the jurisdiction of the Ministry of the Interior, with the exception of special archives such as the National Film Archive, which comes under the Ministry of Culture, or the national literary archive (the National Literature Monument), which cares for and makes accessible to the public (among other things) a collection of literary manuscripts, correspondence and written materials left by Czech literary figures.

703. The so-called non-material cultural heritage, which includes primarily elements of traditional folk culture, such as folk literature, songs, dances, technical procedures of folk trades, etc., is not protected in the Czech Republic by any special legal regulation. However, laws concerning protection of intellectual property rights can be applied to these works as appropriate.

The right to enjoy the benefits of scientific progress

704. An important method of disseminating information and exercising the right to the benefits of scientific progress is periodic inclusion of new information in school teaching plans. The Ministry of Education, Youth and Sports, on the basis of its power to direct schools in matters of social and academic education (set forth in section 12 of the Act on State Government and Self-Government in Education) and on the basis of section 39 of the Schools Act, approves teaching plans and teaching outlines used for teaching in elementary, secondary and post-secondary occupation schools. In connection with this the Ministry of Education sees to it that the outlines of individual subjects in the teaching plan reflect the newest results of scientific progress and that they are presented to children.

705. The aims and content of education, which must be a component of teaching plans and teaching outlines or other teaching documents as core material, are contained in the standards for individual levels and kinds of schools. They are:

(a) The standard for elementary education;

(b) The standard for education in a four-year academic secondary school;

(c) The standard for secondary occupational education.[405]

706. Documents for elementary education are also used in the lower grades of multi-year academic secondary schools (an eight-year or six-year study period), in which students complete compulsory education and receive elementary education. The compliance of textbooks and teaching materials with this requirement is indicated in approval statements for individual textbooks (particularly for elementary and secondary education), which are issued by the Ministry of Education, based on expert evaluation.

707. Public television broadcasting also plays a significant role in informing the public about scientific progress, particularly news, current affairs, documentary, educational and informational programmes.

**Structure of public television broadcasting
(in %)**

	1993	1994	1995	1996	1997	1998
Television broadcasting, total	100.0	100.0	100.0	100.0	100.0	100.0
of that, programme types:						
News	48.8	21.0	13.8	12.4	11.0	11.6
Journalistic and documentary	22.2	18.9	17.1	18.4	22.0	23.1
Educational	6.8	5.6	3.4	3.9	5.4	5.0
Sports	5.3	6.5	4.9	5.9	4.8	7.1
Drama	21.5	24.8	26.9	27.0	25.2	24.6
Musical entertainment and entertainment	14.7	13.0	7.9	7.5	9.5	10.6
Musical and literary	4.1	3.0	2.9	2.2	1.9	2.3
Advertising	1.6	0.6	0.4	2.3	0.7	0.9
Other	8.2	15.0	22.0	9.1	19.5	14.8

Source: The Czech Statistical Office, 1999.

708. Roughly 10,000 non-periodical specialized publications, publicly available in bookstores or public libraries (especially scientific), are published in the Czech Republic each year. In 1998 over 1,000 specialized magazines were published (for comparison: in 1993 only 36 specialized titles, in 1994 only 397 titles, but in 1995 the number of specialized titles grew to 1,011). Specialized magazines are also publicly accessible. Scientific progress is also regularly reported on in periodical publications - dailies and magazines - intended for a general audience.

709. The right to enjoy the benefits of scientific progress is also governed by the Act on State Support for Science and Research,[406] which sets conditions for the creation and use of central records of science and research projects. These records include all projects supported by funds from the State budget. The database is accessible in electronic form on the Web page of the Research and Development Council of the Government of the CR. In addition to the accessibility of information on scientific and research projects, the Act designates the results of projects as the property of the institution in which they are performed and enables tax advantages for use of the results of projects as intangible property.

710. The right to use the benefits of scientific research is also guaranteed by the practical use of the results of applied research, both from the scientific institutes of the Academy of the Sciences of the Czech Republic, and from research institutes established by individual ministries. Access to scientific and research activity is governed primarily by the Act on Universities.[407]

711. An important role in fulfilment of the right to enjoy the benefits of scientific research and providing information about it is played by the Office of Industrial Property,[408] which provides services to the public through the patent library, the information centre (for inventions,

industrial designs and utility models and trademarks) and the Institute of Industrial Legal Education. In 1998 the patent library made accessible over 26 million patent documents in classic form and patent bulletins from 53 countries and international organizations (e.g. the European patent office, WIPO-Patent Cooperation Treaty (PCT) etc.). The public can also use patent information stored in foreign database centres (STN, Questel, Dialog, Epidos). Each year around 8,000 people use the public reading room. The Office also publishes a bulletin, in which it publishes announcements of awarding patents, trademarks, etc., and books on issues of industrial and intellectual property. The Institute of Industrial Legal Education begins a two-year specialized course each year, and it publishes the magazine Prumyslové vlastnictví (Industrial Property).

**Aggregate indicators of research and development
(as of 31 December of each year)**

	1990	1994	1995	1996	1997	1998
Number of employees (in thousands)	106	39	48	50	52	51
Non-investment funds for development of science and technology (in million CK)	10 763	11 215	12 431	14 031	16 870	20 136
of that, from the State budget	3 078	2 982	3 951	5 077	6 359	7 219
Investment expenditures for development of science and technology (in million CK)	1 652	1 768	1 551	2 226	2 607	2 729
Number of independent research and development organizations	233	149	146	141	145	138

Source: Statistical Yearbook of the CR, 1999.

The right to enjoy protection of moral and material interests which arise from scientific, literary or artistic creative work

712. Protection of intellectual property rights arising from scientific, technical and other specialized creative work is ensured in the Czech Republic primarily by fulfilment of obligations arising from international treaties to which the Czech Republic acceded and by which it is bound, and from the Czech Republic's membership in international organizations for intellectual rights protection. The system for protection of intellectual property rights includes protection of copyrights and related rights as well as protection of industrial rights.

713. International obligations are primarily:

(a) World Trade Organization Treaty,[409] which was signed in the name of the Czech Republic on 15 April 1994 in Marrakesh. An integral and binding part of it is also the Treaty on Trade-Related Aspects of Intellectual Property Rights - TRIPS;[410]

(b) Convention Establishing the World Intellectual Property Organization,[411] also the Paris Convention,[412] the Madrid Agreement,[413] the Protocol to the Madrid Agreement,[414] the Nice Agreement,[415] the Lisbon Agreement,[416] the Locarno Agreement,[417] the Strasbourg Agreement,[418] the Budapest Treaty,[419] the Hague Agreement (concerning the International Deposit of Industrial Designs), the Trademark Law Treaty,[420] the Patent Cooperation Treaty,[421] the Berne Convention (Convention for the Protection of Literary and Artistic Works),[422] the Rome Convention (Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations).[423]

These rights are also set forth in and protected by general regulations of civil and criminal law, as well as by special legal regulations.

714. Regulation of copyrights and rights related to copyright is contained in the Act on Literary, Scientific and Artistic Works (the Copyright Act).[424] This Act has been amended five times since 1989. Protection of copyrights has also come closer to the standard in developed countries which are, like the Czech Republic, States parties to international copyright conventions.

715. The Copyright Act of the Czech Republic protects personal and property rights of authors of literary, scientific and artistic works, particularly verbal, theatrical, musical and creative works, including architectural creative works and works of "applied" art - film, photography and cartography works - during the author's life and 50 years after his/her death. Since 1990, computer programs are also protected like literary works if they meet the defining characteristics of a work of authorship. The Act also grants protection to works which are created through the creative processing of the work of another and to translations of works, in such a way as not to affect the protection of the original author's work. As yet the period for protection of works of authorship has not yet been harmonized from 50 years after the author's death to the 70 years in effect in the European Union legislation. Performing artists also enjoy rights similar to those guaranteed to authors by the Act. Their rights are regulated in the framework of related rights, as are the rights of producers of audio recordings and radio and television programmes.

716. Amendments to the Copyright Act from 1990 to 1996 affected the areas where the greatest violation of intellectual property rights occurs. Computer programs are newly protected as literary works and may not be copied, even for personal use. Commercial renting and lending of CDs is permitted only with the consent of authors, performing artists, and producers of audio recordings (at present there is a prohibition on public rental of CDs, imposed by organizations representing performing artists and producers of audio recordings). There are new legislative prerequisites for prosecuting the manufacturer putting into circulation and use of aids intended to eliminate technical devices which protect works from unauthorized use. These amendments also brought further strengthening of customs officials' authority over unauthorized dissemination of goods.

717. Collective administration of copyrights and related rights by special organizations is governed by a special regulation on collective administration of copyrights and rights related to copyright.[425] This Act enables organizations which have been authorized for collective

administration by decision of the Ministry of Culture to collect fees and compensation for rights holders (authors) in areas where the rights holder cannot appropriately exercise copyrights himself (e.g. copying works for private use, rental, lending or other methods of making copies of works publicly accessible).

718. In May 1998 the Government of the Czech Republic approved a substantive outline of a new Copyright Act[426] and in accordance with that, in 1999 the Minister of Culture prepared a draft Act which the Government sent for discussion to the Parliament of the Czech Republic in November 1999. If its final version is passed, this Act will go into effect in 2000. It contains comprehensive regulation of copyrights, which will be fully in accordance with EC regulations and international copyright conventions. The draft of the new Act extends the previous period of protection of literary and artistic works from 50 to 70 years after the author's death and also anticipates revival (renewal) of the period of protection of rights of authors, performing artists, producers of audio recordings and producers of films.

719. The new Copyright Act will newly regulate the rights of a producer of an audio-visual recording, the rights of a publisher, and special rights of a database creator. Authors, performing artists, producers of audio recordings and film producers will also have the right to commensurate compensation for copying of works and audio and audio-visual recordings for private use from non-recording media, playback equipment and equipment used for copying, as well as from those who provide copying services on the basis of a trade licence.

720. The new legal framework will also include new substantive law means for protection and enforcement of rights. Rights holders will be able to apply the same means as in cases of violation of rights against those who produce, place in circulation or provide services related to technological means of interfering with technical protection of works (decoders). The new Copyright Act also introduces protection of electronic information on rights administration.

721. The draft Copyright Act also contains regulation of collective administration of rights. Collective administrators will be provided additional legal means, their rights and obligations will be regulated with a view to the nascent information society, areas and fields will be specified in which collective administration will be compulsory, the status of these organizations in terms of their procedural jurisdiction will be strengthened, a process will be provided for setting the compensation paid by users of works and performances to these organizations, etc.

722. Protection of moral and material interests arising from scientific, technical and expert creative work is governed by the relevant provisions of the following laws: the Act on Inventions, Industrial Models and Rationalisation Proposals,[427] the Act on Utility Models,[428] the Act on Trademarks,[429] the Act on Protection of Economic Competition[430] and the Commercial Code.[431] The regulation applies particularly to agreements on transfer of rights or provision of licences for inventions, industrial models, trademarks, trade names, topography of semi-conductor products, utility models and protected mutations of plants.

723. The system of public law protection for items of industrial property was fundamentally changed by passage of the Act on Trademarks. A trademark owner can seek court enforcement of the prohibition on using his/her trademark or a mark interchangeable with it and to have items labelled in a way which violates his/her rights taken off the market. The trademark owner can request that customs authorities not permit domestic circulation of products whose labelling violates his/her rights under the Act on Trademarks. If damages were caused by interference with trademark rights, the injured party has a right to compensation. In the event of non-property detriment the injured party has a right to commensurate satisfaction, which may consist of financial payment.

724. In general legal regulations, specific protection, observance and enforcement of rights to intellectual property are found in sections 150 to 152 of the Criminal Code:

> Section 150 - Infringement of rights relating to trademarks, commercial names and protected designations of origin;
>
> Section 151 - Infringement of industrial rights;
>
> Section 152 - Infringement of copyright.

725. The central State administration body whose responsibilities cover creating conditions for registering items of industrial property for protection and ensuring proper proceedings concerning them is the Office of Industrial Property.[432]

726. Administrative and judicial bodies, as well as bodies active in criminal proceedings, thus have at their disposal the necessary means and procedures for exercising intellectual property rights. For example, the courts have the power to order preliminary measures to prevent violation of these rights, and they can prohibit violation of the rights. The injured owner has a right to compensation for damages. Intentional violation of these rights is considered a crime, with a possible punishment in the form of a prison sentence or a fine. The police have the power, in connection with proceedings concerning offences, to take a thing from someone if they have grounds to believe that it may be pronounced forfeit or confiscated in court proceedings.

727. As part of its membership in the TRIPS Agreement, the Czech Republic submitted to review its legal system to assess its compatibility with the Agreement in the area of copyrights and related rights, trademarks, geographic markings and industrial models, topography of integrated circuits, protection of confidential information, patents, and the field of enforcement of these rights. Within these reviews, the Czech Republic demonstrated the developed status of its legal system in all the monitored areas.

728. The need to transform the TRIPS Agreement into the Czech legal system, together with the need for harmonization with the legal regulations of the European Union, is reflected in the preparation of additional amendments to laws governing this area. On 1 December 1999 the Act on Measures Concerning the Import, Export and Re-Export of Goods in Violation of Certain

Intellectual Property Rights went into effect; this Act permits customs authorities to take measures against counterfeits or unauthorized imitations, including confiscation and destruction of such goods.

729. Section 5 of the Act on Radio and Television Broadcasting charges broadcasters, in terms of copyright protection, to conclude agreements with organizations for collective administration of copyrights and rights related to copyrights. Similar provisions are contained in the European Convention on Transfrontier Television, which the Czech Republic signed on 7 May 1999.

730. The existing legal regulations in the Czech Republic of obligations under the Covenant concerning broadcasting are adequate, as is monitoring of observance of the regulations, including their enforceability. Observance of provisions of the Acts on Czech Television and Czech Radio is not enforceable directly from the law; monitoring of their fulfilment is, after mutual agreement, left to the broadcasting regulatory bodies, i.e. the Czech Television Council and the Czech Radio Council.

731. At the end of 1999 the Government submitted to the Parliament of the Czech Republic a draft act which significantly supplements and amends the provisions of the existing Broadcasting Act to bring it fully into compliance with the acquis communautaire of the European Union and with the recommendations of the Council of Europe in the field.

Paragraph 2

Support for science, research and development

732. There is still no basic concept document defining Czech State policy on research and development, which has a negative effect in many branches of the national economy, from education to competitiveness of products and technologies in domestic and international markets. On the substantive side, the content of the needed policy is defined by the Principles of Science Policy of the Czech Republic in the Transition to the 21st Century, which the Government adopted in 1998.[433] In the same year the Government also approved detailed procedures for preparation of State policy for research and development,[434] so that an outline would be submitted by 31 December 1999.[435]

733. Analysis of previous development and the status of research and development in the Czech Republic and comparison of them with other countries[436] showed that the Czech Republic lags significantly behind developed countries in numerous indicators of research and development and their outputs. However, the analysis also cites examples showing that, in international comparison, the Czech Republic fares better in research and development than in economic level, competitiveness, credibility and other indicators.

734. The Czech Republic lags behind developed countries (e.g. the United States of America, France, the United Kingdom), and especially behind countries which have traditionally emphasized the quality of scientific publications (e.g. Switzerland, the Netherlands, Belgium, Denmark and the Scandinavian countries), in production of publications and their citation. In

using derived indicators (e.g. bibliometric productivity), which reflect the lower expenditures for research and development and lower numbers of research workers, the Czech Republic approaches the average EU level and most other bibliometric indicators are comparable with Hungary, Poland, Slovenia and the less developed EU countries.

735. The situation with respect to the quality of published work, measured by the level of citation, is worse. Works from the Czech Republic are cited roughly one half less often than works published in European Union countries, although the level of citation has been growing steadily since 1993.

736. The greatest amounts of funds for civilian research and development are spent by the Academy of Sciences of the Czech Republic, the Ministry of Education, Youth and Sports, the Grant Agency of the CR and the Ministry of Industry and Trade. The shares of the other ministries are lower.

737. The number of applications to register inventions from entities residing in the Czech Republic has since 1995 remained at a clearly lower level than the average in European Union countries. The Czech Republic lags behind more markedly in fields which are developing dynamically and are demanding in terms of research and development, but it is on approximately the same level as Poland and Hungary.

Invention applications 1993-1998

Applicant	1993	1994	1995	1996	1997	1998
Domestic	880	756	627	617	585	626
Foreign	2 053	2 593	2 892	3 241	3 652	3 761
PCT (Designations)[a]	5 558	11 695	18 104	23 624	28 875	37 447
Total	8 491	15 044	21 623	27 482	33 112	41 834

[a] International applications, in which the Czech Republic is a designated State under the Patent Cooperation Treaty.

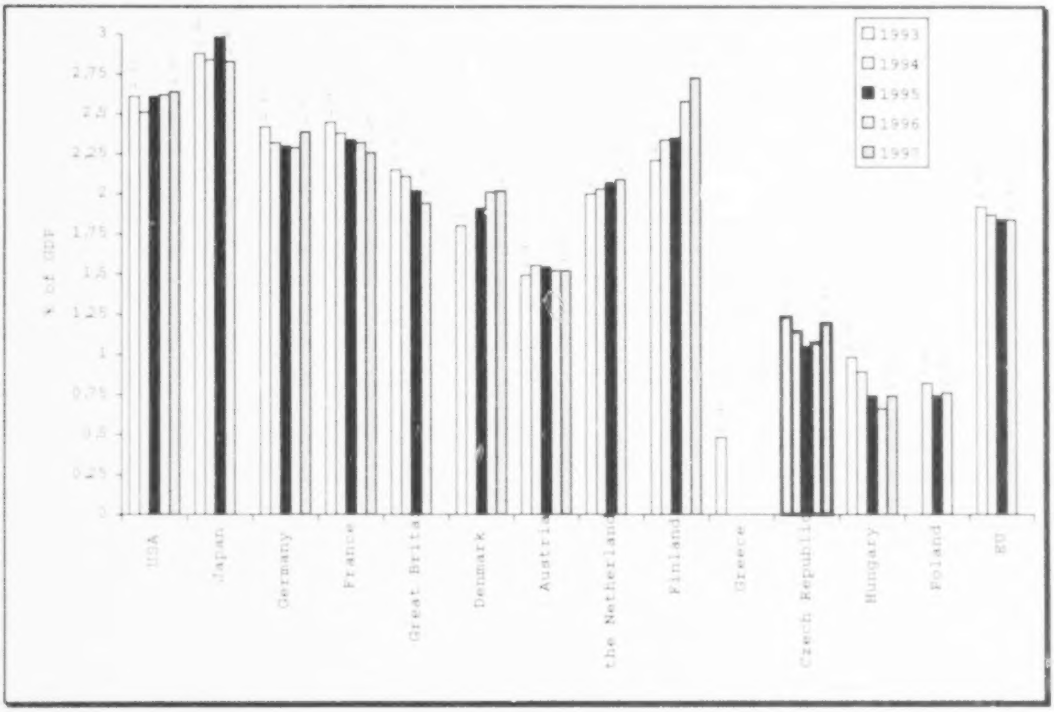
Granted patents, registered utility models and industrial designs, 1993-1998

	1993	1994	1995	1996	1997	1998
Granted patents	860	725	1 299	1 290	1 447	1 451
Registered utility models	1 177	1 637	1 470	1 152	1 499	1 185
Registered industrial designs	627	566	424	803	868	1 017

738. Developed countries spend 2 to 3 per cent of GDP on science and research, in the interest of maintaining competitiveness. However, some less developed OECD member countries spend less than 1 per cent of GDP. In European Union countries, unlike the Czech Republic, indirect support of science and research also plays an important role (tax breaks, etc.).

Trend of total R & D expenditures in the Czech Republic

(Total expenditures on research and development as per cent of GDP)



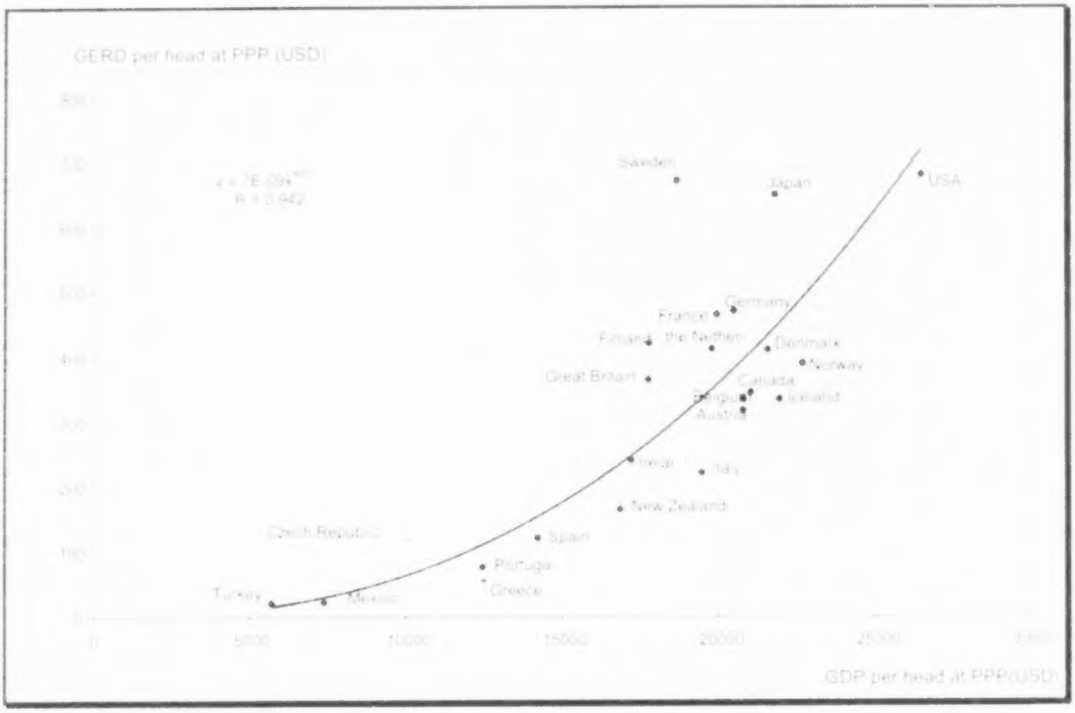
Source: OECD - Main Science and Technology Indicators 1998/2.

Note: The numbers in the graph give the percentage of GDP of total expenditures for research and development in the first and last year of the monitored period. Incomplete columns for some countries indicate missing data in the source material.

739. After 1989 there was a sharp decline in the former Czechoslovakia in expenditures for science and research (in 1991 expenditures for the CR were 2.03 per cent of GDP). This decline after the creation of the independent Czech Republic continued, albeit more slowly, until 1995, and expenditures for science and research then began to grow slowly.

Total R & D expenditures and GDP - 1997 data

(dependence of total R & D expenditures on GDP - both indicators at purchasing power parity per inhabitant)



Source: OECD in Figures (statistics on the member countries, 1998 Edition).

Note: Total expenditures for research and development: abbreviation GERD.

740. Developed and wealthier countries provide more funds for research and development not only absolutely (commensurately higher GDP per person), but also relatively (larger percentage of GDP per person). This naturally contributes to further growth in GDP.

741. As a rule, economic development is preceded by technical progress which is based on innovation. Virtually the exclusive source of innovation is development which uses knowledge gained from research. Support of science and research thus leads to economic growth, and the graph above can be interpreted in this way. The relationships between development of science and research and other activities such as transfer of the results of science and research to the business sphere, and necessary investment in construction, marketing, trade and service activities are very complicated. Thus, the graph can also be interpreted in reverse - wealthier States can afford to provide more funds for science and research.

742. State support for research and development in 2000 to 2002, in accordance with short-term budget prospects, expects gradual growth, up to a goal level of 0.7 per cent of GDP.[437] Two concepts meet here - the previous approach, based on proportional division of resources between 20 budget chapters with tens of small programmes, and a new approach, which - as in the developed countries - concentrates a significant part of funds on solving basic questions. A detailed proposal for further development of science and research and their financing is being prepared for the Government by the Research and Development Council of the Government of the Czech Republic in accordance with the Act on State Support for Research.[438]

743. The present connection of research and development to the concept of development in the jurisdiction of individual central bodies is inadequate. Individual ministries do not have a specific, long-term picture of the future development in a given area, caused by several years of ignoring concept work; connections between the individual concepts are also weak. Both are negatively reflected in the national policy for research and development,[439] which, in developed countries, is based not only on expectations and offers from scientists, but primarily on the requirements of the society, formulated as concepts in areas of public interest.

744. In preparing the policy for research and development it is necessary to address primarily the problems of basic and applied research and transfer of their results, financing, international cooperation, infrastructure, and moral and ethical aspects of research and development.

745. In connection with the national policy for science and research, the Government, under its legislative work plan and Government resolution No. 16 of 5 January 2000, will prepare a new Act on Research and Development by 31 October 2000.

746. One of the systems of purposeful financing of research and development from public funds is the grant system.[440] The agenda related to providing special purpose financial resources from an independent chapter of the State budget for support for research and development is entrusted to the Grant Agency of the Czech Republic. The rules of the grant system come from the statute of the Grant Agency of the CR,[441] the rules for providing special purpose financial resources from the State budget for support for research and development,[442] and from the government resolution on government principles for research and development.[443]

747. The Grant Agency provides special purpose funds, on the basis of results of a public competition, from an independent chapter of the State budget of the Czech Republic and from other sources, for research and development projects proposed by individuals or legal entities which meet the Grant Agency programmes. The Grant Agency supports basic research, scientific programmes and projects which strengthen research potential and applied research and development. The results of grant projects must be published in a form appropriate to the character of the scientific or technical field.

748. The activities of the Grant Agency do not affect the jurisdiction and responsibility of central State administration bodies in support for research and development from the State budget of the CR in institutional or special purpose form. Financing research and development from the special purpose funds of the Grant Agency selectively supplements institutional financing from the State budget and financing from company, ministry or private sources.

International cooperation

749. Workers in research and development, scientific workers and university teachers in the Czech Republic are connected to international cooperation, scientific programmes and international exchanges. Many of them are members of international scientific societies and contribute to foreign scientific magazines. The problem they encounter is insufficient funds from institutional sources for workers in scientific and research institutions to participate in foreign conferences and long-term studies abroad. Apart from special purpose funds for science and research (from grants), they use funds from foreign institutions, including foundations and funds supporting research.

750. The Office of Industrial Property ensures fulfilment of obligations arising for the Czech Republic from international treaties administered by the WIPO to which the country is a party; in cooperation with the Ministry of Industry and Trade, it also ensures fulfilment of obligations arising from the TRIPS Agreement. The Office thus plays an important role in preparation for the Czech Republic's accession to the European Union, and its representatives take part in meetings of the European Patent Organization's Administrative Council. Primarily for these reasons, employees of the Office take part in expert seminars (e.g. Regional Industrial Property Programme - RIPP) and studies abroad, and the Office also organizes international meetings with foreign experts.

Dissemination of information about science and culture

751. Section 10 of the Act on Radio and Television Broadcasting, governing conditions for issuing a broadcasting licence, in paragraph 4 charges the regulatory body to consider, when evaluating an application, the securing of conditions for plurality and balance in the programme selection, particularly local programmes; equal accessibility of cultural values, information and opinions, as well as ensuring development of the cultures of nations, national groups and ethnic groups in the CR; as well as the applicant's preparedness to furnish a certain percentage of programmes with hidden or visible subtitles for the hearing impaired. Under paragraph 6 of that section, when evaluating applications from companies with foreign capital participation, the body also considers the applicant's contribution to development of original domestic creative work. The regulatory body may (under section 12 of the Act) also decide that data concerning the programme structure provided by the applicant in the licence application will be partly or fully binding.

752. The Act on the Czech Television, in section 2, and the Act on the Czech Radio, virtually identically in section 2, define the mission of both public service broadcasters as being to provide objective, verified, impartial and balanced information for the free formation of opinions; to develop the cultural identity of the Czech nation and national and ethnic minorities in the Czech Republic; to provide ecological information; to serve education and the raising of the young generation; and to contribute to the entertainment of viewers.

Freedom of scientific research and creative activity

753. Freedom of expression and the right to information are guaranteed by article 17 of the Charter, cited in the introduction of the text on article 15 of the Covenant. Freedom of

expression is subject to legal restriction as a consequence of measures necessary to protect the rights and freedoms of others, as spreading national, racial or religious hatred is forbidden by law (section 198a of the Criminal Code), as are support and promotion of movements aimed at suppressing the rights and freedoms of citizens (section 260 of the Criminal Code).

754. The right to gather information is also restricted in accordance with article 10, paragraph 3, of the Charter, which states that "everyone has the right to be protected from the unauthorized gathering, public revelation, or other misuse of his/her personal data".

755. In practice, freedom of expression is consistently observed in the Czech Republic. The media are independent, and can criticize State officials without any censorship (or attempt at censorship). Complaints about suppression of freedom of expression are heard almost exclusively from groups which promote racial or national hatred and groups aimed at suppressing the rights and freedoms of others (denying the Holocaust, etc.). On the other hand, organizations concerned with protection of human rights generally consider repression by the State in this area insufficient rather than excessive. Judicial prosecution for spreading racial hatred or support and promotion of movements aimed at suppressing the rights and freedoms of citizens tends to be an exceptional event.

756. In June 1999 the Government submitted to the Chamber of Deputies of the Parliament a draft Act on Rights and Obligations When Publishing Periodical Press and Amending Certain Other Acts (including the Act on Radio and Television Broadcasting), the so-called Press Act, which makes censorship unacceptable and provides freedom of expression. At present the draft contains a provision which is to ensure protection of society in cases where the contents of periodical press violate the constitutional order of the Czech Republic or the democratic order of human rights and fundamental freedoms guaranteed by the Charter. However, after discussion in committees in December 1999 and January 2000, the Senate returned the draft of the new Press Act to the Chamber of Deputies for new discussion.

757. In these cases protection is entrusted to an independent court, which will be entitled to impose on a publisher who permits the content of a periodical published by him to be in conflict with the Act, the duty to pay the State financial reparation. The court can also impose a temporary prohibition on publication of the periodical or prohibit its dissemination in the Czech Republic. The Senate will discuss the draft at its first session in January.

758. Certain difficulties also appear in the area of the right to information. Journalists and other citizens often complain about the lack of openness and unwillingness of officials to provide them with information about the activities of State bodies. The new Act on Free Access to Information,[444] which went into effect on 1 January 2000, should help correct this situation. The Act governs the provision of information related to the jurisdiction of State bodies and territorial self-government bodies. In particular, it guarantees free access to information and sets forth conditions under which the information is provided.

Notes

[1] Source: Population Development in the Czech Republic 1998. Faculty of Natural Sciences of Charles University, Prague, 1999.

[2] Joint evaluation by the Government of the Czech Republic and the European Commission, concerning priorities of economic policy of the Czech Republic. Approved by resolution of the Government of the Czech Republic of 8 September 1999, No. 910.

[3] The degree of openness is expressed as the ratio of the sum of imports and exports of goods and services to gross domestic product.

[4] Constitutional Act No. 347/1997 Coll., on Creation of Higher Territorial Self-governing Units and Amending Constitutional Act No. 1/1993 Coll., the Constitution of the Czech Republic.

[5] Act No. 425/1990 Coll., on District Offices, Regulation of their Jurisdiction and on Certain other Related Measures, as subsequently amended.

[6] Under Act No. 152/1994 Coll., on Elections to Representative Bodies in Municipalities and Amending and Supplementing Certain other Acts, as subsequently amended.

[7] Under Act No. 367/1990 Coll., on Municipalities (Municipal Establishment), as subsequently amended.

[8] Under Act No. 247/1995 Coll., on Elections to the Parliament of the Czech Republic and Amending and Supplementing Certain other Acts, as amended by Act No. 212/1996 (sect. 2 and sect. 25).

[9] Section 2 of Act No. 247/1995 Coll: Restrictions on exercise of the right to vote are (a) limitations of personal freedom set by law for reasons of protection of public health (section 5, paragraph 2 (b) and section 9, paragraph 4 (a) of Act No. 20/1996 Coll., on Public Health, amended by CNC Act No. 548/1991 Coll.), (b) removal of legal capacity (sections 10 and 855 of the Civil Code).

[10] Under Constitutional Act No. 1/1993 Coll., the Constitution of the Czech Republic and Act No. 247/1995 Coll., on elections to the Parliament of the Czech Republic and Amending and Supplementing Certain other Acts, as subsequently amended (sect. 2 and sect. 57).

[11] Under Constitutional Act No. 1/1993 Coll., the Constitution of the Czech Republic and Act No. 90/1995 Coll., on the Rules of Procedure of the Chamber of Deputies.

[12] The activity and jurisdiction of the highest State Government bodies are governed by Czech National Council Act No. 2/1969 Coll., on Establishment of Ministries and other Central Bodies of State Administration of the Czech Republic, as subsequently amended, and regulations related to that Act.

[13] Act No. 166/1993 Coll., on the Supreme Audit Office, as subsequently amended.

[14] Act No. 6/1993 Coll., on the Czech National Bank, as subsequently amended.

[15] Act No. 335/1991 Coll., on Courts and Judges, as subsequently amended.

[16] Act No. 182/1993 Coll., on the Constitutional Court, as subsequently amended.

[17] Act No. 140/1961 Coll., the Criminal Code, as subsequently amended.

[18] Act No. 283/1993 Coll., on the State Prosecutor's Office, as subsequently amended.

[19] Act No. 141/1961 Coll., on Criminal Court Proceedings (the Criminal Procedure Code), as subsequently amended.

[20] Act No. 99/1963 Coll., the Civil Procedure Code, as subsequently amended.

[21] Act No. 2/1993 Coll., on Promulgation of the Charter of Fundamental Rights and Freedoms as Part of the Constitutional Decree of the Czech Republic, as subsequently amended.

[22] Act No. 4/1993 Coll., on measures related to the dissolution of the Czech and Slovak Federal Republics.

[23] Act No. 40/1964 Coll., the Civil Code, as subsequently amended; Act No. 99/1963 Coll., the Civil Procedure Code, as subsequently amended; Act No. 140/1961 Coll., the Criminal Code, as subsequently amended; Act No. 141/1961 Coll., on Criminal Court Proceedings (the Criminal Procedure Code), as subsequently amended; Act No. 71/1967 Coll., on Administrative Proceedings (the Administrative Procedure Code), as subsequently amended.

[24] As of 1 January 2000, publishing legal regulations is newly regulated by Act No. 309/1999 Coll., on the Collection of Laws and Collection of International Treaties. International treaties are published in the Collection of International Treaties in the language which is official under international law for their interpretation and simultaneously in Czech translation.

[25] Act No. 545/1992 Coll., on the Collection of Laws of the Czech Republic.

[26] Decree of the Ministry of Education and Culture No. 140/1964 Coll., on Compulsory and Working Copies, as subsequently amended.

[27] On 14 March 2000 a new decree concerning compulsory distribution of the periodical press, Decree of the Ministry of Culture No. 52/2000 Coll., went into effect (in accordance with section 9, paragraph 6, Act No. 46/2000 Coll., the Press Act). Under this decree, the authorised recipients of compulsory copies of periodicals are national scientific libraries and the City Library of the City of Prague.

[28] International conventions related to the Czech Republic's membership in the United Nations: Universal Declaration of Human Rights: approved by the United Nations General Assembly on 10 December 1948, No. DEO1/48 in Czech legal regulations; International Covenant on Civil and

Political Rights (ICCPR): the text of the Covenant is published under No. 120/1976 Coll.; International Covenant on Economic, Social and Cultural Rights (ICESCR): text of Covenant under No. 120/1976 Coll.; International Convention on the Elimination of All Forms of Racial Discrimination. Convention text under No. 95/1974 Coll.; Convention on Elimination of All Forms of Discrimination against Women: the text of the Convention is published in the Collection of Laws under No. 62/1987 Coll.; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment of Punishment: the text of the Convention is in the Collection of Laws under No. 143/1988 Coll. and 39/1997 Coll. (withdrawal of reservations made in the first ratification and to selected articles); Convention on the Rights of the Child: Convention text under No. 104/1991 Coll.

International conventions related to the Czech Republic's membership in the Council of Europe: Convention for the Protection of Human Rights and Fundamental Freedoms, including Protocols, text promulgated in the Collection of Laws under No. 209/1992 Coll. with amendments No. 41/1996 Coll. and No. 243/1998 Coll.; Framework Convention for the Protection of National Minorities: Convention text under No. 96/1998 Coll.; European Social Charter: by resolution of No. 776 of 25 November 1998, the Government approved the proposal of the Minister of Labour and Social Affairs to ratify the European Social Charter (1961), the Additional Protocol to the European Social Charter (1988) in the proposed extent, and the Amending Protocol to the European Social Charter (1991) and to sign the revised European Social Charter (1996) subject to ratification. The Chamber of Deputies approved the Charter in July 1999, and the Senate in August 1999. Instruments of ratification were deposited with the Secretary-General of the Council of Europe on 17 November 1999. The European Social Charter was published in the Collection of International Treaties under No. 14/2000 Coll. I.T., and the Additional Protocol was published under No. 15/2000 Coll. I.T. The Amending Protocol has not been published yet The Ministry of Labour and Social Affairs, which prepared the proposal to ratify the Charter and the Protocols to it, submitted it for approval, at the request of the Ministry of Foreign Affairs, presented as a treaty under article 10 of the Constitution, i.e. as an international treaty on human rights. The Chamber of Deputies changed this concept and adopted it not by the approval procedure under article 39, paragraph 4, but rather under article 49, paragraph 2, of the Constitution. The European Social Charter is therefore not a human rights treaty under article 10 of the Constitution.

[29] Decision No. 3/1995 Coll., of the Constitutional Court of the CR in the matter of a proposal to annul certain provisions of article I Act No. 74/1994 Coll., Amending and Supplementing the Labour Code No. 65/1965 Coll., as subsequently amended, and Certain Other Acts.

[30] Act No. 106/1999 Coll., on Free Access to Information.

[31] Resolution of the Government of the Czech Republic of 9 September 1998 No. 579.

[32] Resolution of the Government of the Czech Republic of 9 December 1998 No. 809, on Improvement of Protection of Human Rights in the Czech Republic (on the fiftieth anniversary of the adoption of the Universal Declaration of Human Rights).

[33] Act No. 349/1999 Coll., on the Public Protector of Rights.

[34] Established under Act No. 83/1990 Coll., on Citizens' Assembly, as subsequently amended.

[35] Established under Act No. 308/1991 Coll., on Freedom of Religious Faith and the Status of Churches and Religious Societies.

[36] Established under Act No. 248/1995 Coll., on Public Service Societies and Amending and Supplementing Certain Acts.

[37] Established under Act No. 227/1997 Coll., on Foundations and Foundation Funds and Amending and Supplementing Certain Related Acts (the Foundations and Foundation Funds Act).

[38] Act No. 576/1990 Coll., on Rules of Managing Budget Funds of the CR and Municipalities in the CR (the State Budget Rules), as subsequently amended.

[39] The Government submitted the government draft of the Act to the Chamber of Deputies on 18 November 1999, the Chamber of Deputies sent it to committees for discussion. The Act is to go into effect on 1 January 2001.

[40] Approved by resolution of the Government of the Czech Republic of 27 November 1992 No. 663, on the State budget of the Czech Republic for 1993.

[41] Government Rules for Providing Subsidies from the State Budget of the CR to Civic Associations, newly approved by resolution of the Government of the Czech Republic of 23 July 1999 No. 642, with effect as of 1 July 1999.

[42] Resolution of the Government of the Czech Republic of 6 October 1999 No. 1031, on Analysis of Financing Civic Associations, Special Purpose Facilities of Churches, Public Service Societies, Foundations and Foundation Funds from the State Budget. In connection with this material and tasks arising from it, on 15 March 2000 the Government approved resolution No. 260, on main areas of State subsidy policy toward non-governmental non-profit organizations in 2001 and standardization of certain of their technical-organizational rules.

[43] Under Act No. 171/1991 Coll., on the jurisdiction of bodies of the Czech Republic in matters of transfers of State property to other persons and on the National Property Fund of the Czech Republic, as subsequently amended. The Fund's property is not part of the State budget and it can be used - among other things - for transfer to the Foundation Investment Fund (FIF) for purposes of support for foundations specified by the Chamber of Deputies at the proposal of the Government (section 18, paragraph 2 (a) of the cited Act). Conditions for distributing funds from the FIF in the first phase were set by Government resolution No. 360 of 27 May 1998; the basic rules for distribution of funds acquired through sales of shares intended for FIF in the second stage were approved by Government resolution No. 1,002 of 29 September 1999.

[44] Decree of the Ministry of Foreign Affairs of 10 May 1976 No. 120/1976 Coll., on the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.

[45] Act No. 17/1992 Coll., on the Environment, as subsequently amended, particularly Act No. 123/1998, on the Right to Information about the Environment.

[46] Organisation for Economic Cooperation and Development (OECD).

[47] Resolution of the Government of the Czech Republic of 14 April 1999 No. 354/1999, on Solving the Economic Problems of Certain Industrial Companies.

[48] International Monetary Fund (IMF).

[49] World Trade Organization (WTO).

[50] Central European Free Trade Agreement (CEFTA).

[51] Decree of the Ministry for Management of National Property and its Privatization of the CR No. 324/1991 Coll., Setting a Binding Outline for the Preparation of a Privatization Project, as subsequently amended.

[52] Act No. 167/1999 Coll., amending Act No. 1/1991 Coll., on Employment, as subsequently amended, Act No. 9/1991 Coll., on Employment and Jurisdiction of Bodies of the Czech Republic in the Employment Sector, as subsequently amended, Act No. 368/1992 Coll., on Administrative Fees, as subsequently amended, and Act No. 65/1965 Coll., the Labour Code, as subsequently amended.

[53] Act No. 29/1984 Coll., on the System of Elementary Schools, Secondary Schools and Post-secondary Occupational Schools (the Schools Act), as subsequently amended.

[54] Act No. 564/1990 Coll., on State Administration and Local Administration in Education, as subsequently amended.

[55] Act No. 76/1978 Coll., on School Facilities, as subsequently amended.

[56] Act No.111/1998 Coll., on Universities and Amending and Supplementing other Acts.

[57] Act No. 20/1966 Coll., on Public Health, as subsequently amended.

[58] Act No. 634/1992 Coll., on Consumer Protection, as subsequently amended.

[59] Under Act No. 64/1986 Coll., on Czech Commercial Inspection, as amended by Act No. 425/1992 Coll., section 12: "In setting the amount of a fine or a disciplinary fine consideration is given to the seriousness, method, duration and consequences of the illegal behaviour, and in the case of an inspected natural person, also to the degree of fault."

[60] Act No. 71/1967 Coll., on Administrative Proceedings (the Administrative Procedure Code), as subsequently amended, and Act No. 337/1992 Coll., on Administration of Taxes and Fees, as subsequently amended.

[61] Act No. 123/1992 Coll., on Foreigners' Stay and Residence in the CSFR, as subsequently amended. As of 1 January 2000 a new Act on Foreigners' Stay and Residence in the Czech Republic has been in effect, No. 326/1999 Coll.

[62] Act No. 71/1967 Coll., on Administrative Proceedings, as subsequently amended.

[63] Act No. 326/1999 Coll., on Foreigners' Stay and Residence in the Czech Republic and Amending Certain Acts. Conditions for a long-term residence permit are newly regulated in sections 65 to 67. Without meeting the condition of a previous uninterrupted stay, a foreigner may apply for a permanent residence permit for purposes of family reunification (with a citizen of the CR), for humanitarian reasons, or in the political interest of the CR. Under section 66 on Permanent Residence Permits, one can also apply after eight years of uninterrupted stay in the CR for purposes of family reunification with a foreigner with permanent residence. Under section 67 every foreigner may apply for a permanent residence permit after a total of 10 years of uninterrupted stay in the CR.

[64] Announcement of the Ministry of Foreign Affairs of the CR No. 208/1993 Coll., the Convention relating to the Status of Refugees (of 1951) and the Protocol to that Convention (of 1967).

[65] Act No. 498/1990 Coll., on Refugees, as subsequently amended.

[66] Act No. 40/1993 Coll., on Acquiring and Losing Citizenship of the Czech Republic, as subsequently amended, in particular the amendment No. 194/1999 Coll.

[67] Act No. 325/1999 Coll., on Asylum and Amending Act No. 283/1991 Coll., on the Police of the Czech Republic, as subsequently amended.

[68] The dividing criterion was neither the will of the citizen of the former federation nor his permanent residence, but citizenship of one of the republics in the federation (in accordance with Act No. 165/1968 Coll., on Principles of Acquiring and Losing Citizenship, and Act No. 39/1969 Coll., as subsequently amended), which, until the dissolution, had no practical importance other than for "parity" in appointing citizens of both republics to federal government positions and it was not even indicated in identification papers.

[69] Amendments to the Act on Acquiring and Losing Citizenship of the Czech Republic: Act No. 272/1993 Coll., Act No. 337/1993 Coll., Act No. 140/1995 Coll. and particularly Act No. 139/1996 Coll., where section 11 of the Act was expanded by a new paragraph 3, under which the Ministry of the Interior could waive the condition of a clean criminal record if the applicant was a citizen of the Slovak Republic or a former citizen of the Slovak Republic who had an uninterrupted stay/residence in the Czech Republic as of no later than 31 December 1992.

[70] Act No. 194/1999 Coll., Amending Act No. 40/1993 Coll., on Acquiring and Losing Citizenship of the Czech Republic, as subsequently amended.

[71] Act No. 40/1993 Coll., on Citizenship of the Slovak Republic.

[72] Act No. 65/1965 Coll., the Labour Code, as subsequently amended. Act No. 1/1991 Coll., on Employment, as subsequently amended.

[73] Act No. 117/1995 Coll., on State Social Care Support , as subsequently amended.

[74] Act No. 94/1963 Coll., on the Family, as subsequently amended.

[75] CEDAW - Committee on the Elimination of Discrimination against Women.

[76] Decree of the Ministry of Education, Youth and Sports of the CR No. 354/1991 Coll., on Secondary Schools, as subsequently amended.

[77] Act No. 94/1963 Coll., on the Family, as subsequently amended, particularly amendment No. 91/1998 Coll.

[78] Act No. 99/1963 Coll., the Civil Procedure Code, as subsequently amended. The Government approved the draft amendment to the Civil Procedure Code by resolution of 16 June 1999 No. 589/1999 and submitted it to the Parliament. The amendment is to go into effect on 1 February 2001.

[79] Under Directive No. 97/80/ES, on the Burden of Proof in Cases of Discrimination Based on Sex.

[80] Resolution of the Government of the Czech Republic of 29 November 1999 No. 1284, on the proposal for signature and ratification of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women. The Czech Republic signed the Optional Protocol at the fifty-fourth session of the United Nations General Assembly on 10 December.

[81] Decree of the Minister of Foreign Affairs No. 62/1987 Coll., on the Convention on the Elimination of All Forms of Discrimination against Women.

[82] CEDAW – Committee on the Elimination of Discrimination against Women.

[83] Resolution of the Government of the Czech Republic of 8 April 1998 No. 236.

[84] The Government approved the summary report by resolution of 10 May 1999 No. 452.

[85] Government resolution of 5 May 1999 No. 418, on the National Employment Plan.

[86] Act No. 167/1999 Coll. contains in section 1 a prohibition on discrimination against citizens, including discrimination based on gender, in the right to employment, and a prohibition on discriminatory advertising.

[87] Act No. 1/1992 Coll., on Wages and Remuneration for Stand-by Work and Average Earnings, as subsequently amended.

[88] Act No. 143/1992 Coll., on Wages and Remuneration for Stand-by Work in Organisations Funded from the Budget and Certain Other Organisations and Bodies, as subsequently amended.

[89] Act No. 186/1992 Coll., on the Service Relationship of Officers of the CR Police, as subsequently amended.

[90] Act No. 154/1994 Coll., on the Security Information Service, as subsequently amended.

[91] Act No. 221/1999 Coll., on Professional Soldiers.

[92] Decree of the Ministry of Health No. 261/1997 Coll., on the Labour Code, which Specifies Work and Workplaces which Are Forbidden to All Women, Pregnant Women, Mothers until the End of the Ninth Month after Childbirth and Juveniles. It also specifies conditions under which juveniles - including women - may exceptionally perform this work for reasons of training for occupations. The decree is not of a discriminatory nature; it protects a woman in her reproductive function.

[93] D. Holý (1999): Analysis of wage disparity between men and women on the basis of research on wages of employees. Statistika (Statistics) 2/99, Czech Statistical Office, Prague.

[94] Constitutional Act No. 110/1998 Coll., on the Security of the Czech Republic. Article 2: "(1) If there is a direct threat to the sovereignty, territorial integrity, or democratic foundations of the Czech Republic, or to a considerable extent internal Decree and safety, lives and health, property or the environment, or if it is necessary to fulfil international commitments on mutual defence, depending on intensity, territorial scope and the nature of the situation, a state of emergency, state of national endangerment, or state of war may be declared. (2) A state of emergency and a state of national endangerment are declared for a limited or for the entire territory of the State; a state of war is declared for the entire territory of the State."

[95] Constitutional Act No. 110/1998 Coll. on Security of the Czech Republic. Article 7: "(1) Parliament may, at the proposal of the Government, declare a state of national endangerment, if the State's sovereignty or territorial integrity or democratic foundations are directly threatened. (2) The approval of a majority of all deputies and the approval of a majority of all senators are required to pass a resolution on declaration of a state of national endangerment."

[96] Act No. 221/1999 Coll., on Professional Soldiers. Until 30 November 1999, this limitation was defined by Act No. 76/1959 Coll., on Certain Service Relationships of Soldiers, as subsequently amended.

[97] Section 53 of Act No. 222/1999 Coll., on Ensuring the Defence of the Czech Republic:

> "(1) To ensure the defence of the State in a state of national endangerment or in a state of war, freedom of movement and residence and the right to peaceful assembly shall be restricted to the degree absolutely necessary.

"(2) Restriction on freedom of movement and freedom of residence consists of the duty to obey:

(a) a prohibition of entry into designated areas,

(b) an order to remain in the place of permanent residence or to stay in an ordered place,

(c) a prohibition on leaving buildings or constructions designated for protection of inhabitants.

"(3) Restriction of the right to peaceful assembly consists of the duty to obey a prohibition on calling an assembly in public areas, including street marches and demonstrations.

"(4) Paragraph 2 does not apply to natural persons performing rescue work or ensuring the provision of assistance in cases of direct endangerment of health of life.

"(5) The local, personal and time application and specification of restrictions of human rights and fundamental freedoms provided in paragraphs 2 and 3 are ordered by the Government. The Decrees are announced in the same manner as a legal regulation and published in the mass media. Restrictions on human rights and fundamental freedoms go into effect at the moment specified in the Decree.

"(6) The provisions of the foregoing paragraphs are not to the detriment of the right of the Czech Republic to also restrict other human rights, if permitted by treaties on human rights and fundamental freedoms by which the Czech Republic is bound."

[98] Decree of the Ministry of Foreign Affairs of 10 May 1976, No. 120/1976 Coll., on the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.

[99] Notification No. 209/1992 Coll., of the Federal Ministry of Foreign Affairs on Protection of Human Rights and Fundamental Freedoms as amended by Protocols Nos. 3, 5 and 8, as subsequently amended.

[100] Act No. 40/1964 Coll., the Civil Code, as subsequently amended.

[101] Act No. 65/1965, the Labour Code, as subsequently amended.

[102] Act No. 82/1998 Coll., on Liability for Damages Caused in the Exercise of Public Power by a Decision or Incorrect Official Procedure. This Act replaced Act No. 58/1969 Coll., on Liability for Damages Caused by a Decision by a State Body or by its Incorrect Official Procedure, which ceased to correspond to the changing social situation, as it was based on the principle of a single exclusive bearer of liability for damages, which was the State. This definition contained in Act

No. 58/1969 Coll. no longer corresponded to the constitutional or statutory regulation of exercise of public power, which is, under the Constitution of the Czech Republic, also entrusted to entities other than the State.

[103] Parties to proceedings under Act No. 82/1998 Coll., on Liability for Damages Caused in the Exercise of Public Power by a Decision or Incorrect Official Procedure, parties under the Criminal Code, parties to proceedings under the Civil Procedure Code or variously defined parties under proceedings on administrative decisions.

[104] In cases worthy of special attention, fulfilment of this condition can be waived.

[105] In isolated cases, complaints were made that this provision violated the presumption of innocence.

[106] The legal regulation contained in Act No. 82/1998 Coll., Liability for Damages Caused in the Exercise of Public Power by a Decision or Incorrect Official Procedure applies, however, only to damages which were caused by public law activities of the State; liability for damages caused by a violation of duties specified by public law does arise, but it is regulated by private law and Act No. 82/1998 Coll. belongs to the system of civil law. The Civil Code applies to relationships under this Act in a subsidiary manner.

[107] List of International Labour Organization conventions, ratified by the Czech Republic as of 30 August 1999 and important in terms of the Covenant, for which the Czech Republic has submitted reports since 1993:

No. 12 - Workmen's Compensation (Agriculture), 1921; No. 14 - Weekly Rest (Industry), 1921; No. 17 - Workmen's Compensation (Accidents), 1925; No. 29 - Forced Labour, 1930; No. 42 - Workmen's Compensation (Occupational Diseases) (Revised), 1934; No. 45 - Underground Work (Women), 1935; No. 87 - Freedom of Association and Protection of the Right to Organise, 1948; No. 88 - Employment Service, 1948; No. 90 - Night Work of Young Persons (Industry) (Revised), 1948; No. 95 - Protection of Wages, 1949; No. 98 - Right to Organise and Collective Bargaining, 1949; No. 100 - Equal Remuneration, 1951; No. 105 - Abolition of Forced Labour, 1957. No. 111 - Discrimination (Employment and Occupation), 1958; No. 122 - Employment Policy, 1964; No. 130 - Medical Care and Sickness Benefits, 1969; No. 132 - Holidays with Pay (Revised), 1970; No. 148 - Working Environment (Air Pollution, Noise and Vibration), 1977; No. 155 - Occupational Safety and Health, 1981; No. 159 - Vocational Rehabilitation and Employment (Disabled Persons), 1983; No. 167 - Safety and Health in Construction, 1988; No. 171 - Night Work, 1990.

[108] Act No. 1/1991 Coll., on Employment, as subsequently amended.

[109] Act No. 9/1991 Coll., on Employment and Jurisdiction of Bodies of the Czech Republic in the Employment Sector, as subsequently amended.

[110] Act No. 65/1965 Coll., the Labour Code, as subsequently amended.

[111] Act No. 231/1992 Coll., Amendment of the Labour Code, in effect as of 29 May 1992.

[112] International Labour Organization (ILO).

[113] Section 36, paragraph 1, of the Labour Code: "The terms agreed in an employment contract may be modified only if the employer and the employee agree upon such modification. If the employment contract was concluded in writing, the employer must make any amendment to such contract in writing as well."

[114] Act No. 140/1961 Coll., the Criminal Code, as subsequently amended.

[115] Act No. 99/1963 Coll., the Civil Procedure Code, as subsequently amended.

[116] Act No. 13/1993 Coll., the Customs Act, as subsequently amended and Decree of the Ministry of Finance No. 259/1997 Coll., regulating Certain Details of the Service Relationship of Customs Officers.

[117] Act No. 15/1993 Coll., on the Army of the Czech Republic and on Amendments and Supplements to Certain Related Acts, as subsequently amended; Act No. 76/1959 Coll., on Certain Service Relationships of Soldiers, as subsequently amended.

[118] Act No. 154/1994 Coll., on the Security Information Service, as subsequently amended.

[119] Act No. 186/1992 Coll., on the Service Relationship of Officers of the Police of the Czech Republic, as subsequently amended.

[120] Act No. 133/1985 Coll., on Fire Safety, as subsequently amended.

[121] Act No. 221/1999 Coll., on Professional Soldiers.

[122] Act No. 222/1999 Coll., on Securing the Defence of the Czech Republic.

[123] Act No. 219/1999 Coll., on the Armed Forces of the Czech Republic.

[124] Act No. 29/1984 Coll., on the System of Elementary Schools, Secondary Schools and Post-secondary Occupational Schools (the Schools Act), as subsequently amended.

[125] Decree of the Ministry of Labour and Social Affairs No. 21/1991 Coll., on More Detailed Conditions for Arranging the Requalification of Job Seekers and Employees, as subsequently amended.

[126] Act No. 123/1992 Coll., on Foreigner's Stay and Residence in the Czech and Slovak Federal Republic, as subsequently amended.

[127] Act No. 167/1999 Coll., Amending Act No. 1/1991 Coll., on Employment, as subsequently amended, Act No. 9/1991 Coll., on Employment and the Jurisdiction of Bodies of the Czech Republic in the Employment Sector, as subsequently amended, and Act No. 65/1965 Coll., the Labour Code, as subsequently amended.

[128] In accordance with the Convention relating to the Status of Refugees and the Protocol relating to the Status of Refugees, which were published in the Collection of Laws under No. 208/1993 Coll. and under Act No. 498/1990 Coll., on Refugees, as subsequently amended.

[129] Bilateral Treaty No. 227/1993 Coll., Treaty between the Czech Republic and the Slovak Republic on Reciprocal Employment of Citizens.

[130] Act No. 200/1990 Coll., on Offences, as subsequently amended.

[131] Act No. 455/1991 Coll., on Trades (the Trades Licensing Act), as subsequently amended.

[132] Act No. 513/1991 Coll., the Commercial Code, as subsequently amended.

[133] Act No. 105/1990 Coll., on Private Conduct of Business by Citizens, as subsequently amended.

[134] Act No. 85/1996 Coll., on Advocacy, as subsequently amended.

[135] Act No. 524/1992 Coll., on Auditors and the Accounting Office of the Czech Republic, as subsequently amended.

[136] Report on the Situation of the Romani Community in the Czech Republic and Government Measures Assisting its Integration in the Society, appendix to resolution of the Government of the Czech Republic of 20 October 1997 No. 686.

[137] In 1997 and 1998 there were two requalification courses for social workers in work with the Romani population in which Romani job seekers took part. However, most of them found places as consultants in district or city offices, in anti-drug and consulting centres and as assistants in schools.

[138] In 1998 the Ministry of Interior provided CK 2,819,000 to support 10 projects aimed directly at supporting Romani employment through requalification, personal consulting and education of Romani youth.

[139] International Classification of Impairments, Activities and Participation - International Classification of Functioning and Disability (ICIDH-2).

[140] Resolution of the Government of the Czech Republic of 5 May 1999 No. 418, on the National Employment Plan.

[141] Act No. 451/1991 Coll., which Provides Certain Additional Requirements for the Performance of Certain Functions in State Bodies and Organisations of the Czech and Slovak Federal Republic, the Czech Republic and the Slovak Republic, as subsequently amended.

[142] Act No. 279/1992 Coll., on Certain Additional Requirements for Performance of Certain Functions Filled by Designation or Appointment of Officers of the Police of the Czech Republic and Officers of the Prison Service of the Czech Republic, as subsequently amended.

[143] Under section 27, paragraph 2, of Act No. 455/1991 Coll., on Licensed Trades (the Trades Licensing Act), and Appendix No. 3 to that Act.

[144] This fact was disputed because the former collaborators with the State Security also included persons who signed collaboration agreements under pressure or only formally.

[145] The Constitutional Court of the CSFR decided on 26 November 1992 that 10 provisions of this Act were not in compliance with the Charter or the Constitution, and that they were void as of 15 June 1993. Confidantes and candidates for secret cooperation were thus removed from the punishable categories of secret collaborators with the State Security. In 1995 the effectiveness of the Lustration Act was extended to 2000, over the veto of the President of the Republic.

[146] Under section 5 of Act No. 9/1991 Coll., on Employment and the Jurisdiction of Bodies of the Czech Republic in the Employment Sector, as subsequently amended, and decree of the Ministry of Labour and Social Affairs of the CR No. 35/1997 Coll., which regulates provision of financial contributions.

[147] Resolution of the Government of the Czech Republic of 5 May 1999 No. 418, on the National Employment Plan.

[148] In the 1990s the European Commission issued a political document on public passenger transportation, the Green Paper, in which it emphasizes the importance of the social element of personal mobility. Accessibility of public passenger transportation is, according to the Green Paper, one of the basic social rights of the European citizen.

[149] Act No. 22/1999 Coll., on the State Budget of the Czech Republic for 1999.

[150] Resolution of the Government of the Czech Republic of 31 May 1999 No. 534, on a Proposal for Urgent Measures to Address the Current Situation in the Labour Market.

[151] Statute of the Council of the Economic and Social Agreement of the Czech Republic, article 1.

[152] Act No. 201/1997 Coll., on Wages and Certain Other Entitlements of State Prosecutors and Amending and Supplementing Act No. 143/1992 Coll., on Wages and Compensation for Stand-by Work in Budget and Certain Other Organisations and Bodies as subsequently amended.

[153] Act No. 328/1991 Coll., on Bankruptcy and Settlement, as subsequently amended.

[154] Act No. 2/1991 Coll., on Collective Bargaining, as subsequently amended.

[155] Regulation of the Government of the Czech Republic No. 253/1995 Coll., on Salary Levels of Employees of State Administration Bodies, Certain Other Bodies and Municipalities, as amended by Regulation of the Government No. 78/1994 Coll., Regulation of the Government No. 142/1995 Coll., Regulation of the Government No. 71/1996 Coll., Regulation of the Government No. 326/1996 Coll., Regulation of the Government No. 353/1997 Coll. and Regulation of the Government No. 248/1998 Coll.

[156] Regulation of the Government of the Czech Republic No. 86/1993 Coll., on Personal Income Provided to Ministers of Churches and Religious Societies, as amended by Regulation of the Government No. 273/1995 Coll. and Regulation of the Government No. 322/1998 Coll.

[157] Regulation of the Government of the Czech Republic No. 48/1995 Coll., on Setting the Amount of Funds Expended for Wages and Compensation for Stand-by Work in Organisations Funded from the Budget and Certain Other Organisations and Bodies, as amended by Regulation of the Government No. 144/1995 Coll., Regulation of the Government No. 209/1995 Coll., Regulation of the Government No. 306/1995 coll., Regulation of the Government No. 137/1997 Coll., Regulation of the Government No. 349/1997 Coll., Regulation of the Government No. 319/1998 Coll. and Regulation of the Government No. 332/1999 Coll.

[158] Regulation of the Government of the Czech Republic No. 303/1995 Coll., on the Minimum Wage, as amended by Regulation of the Government No. 320/1997 Coll., 317/1998 Coll., 131/1999 Coll. and 313/1999 Coll.

[159] Government Regulation No. 108/1994 Coll., implementing the Labour Code.

[160] Regulation of the Government of the Czech Republic No. 333/1993 Coll., on Setting Minimum Wage Levels and Wage Benefits for Work in Difficult or Unhealthy Work Environments and for Night Work, as amended by Regulation of the Government No. 308/1995 Coll., 356/1997 Coll., 318/1998 Coll., 312/1999 Coll. and 132/1999 Coll.

[161] Regulation of the Government of the Czech Republic No. 252/1992 Coll., on Conditions for Providing and the Amount of a Special Supplemental Payment for Working in Difficult Work Conditions and Work Conditions Damaging to Health, as amended by Regulation of the Government No. 77/1994 Coll.

[162] Regulation of the Government of the Czech Republic No. 63/1998 Coll., on the Method of Calculating the Basic Amount which Cannot Be Withheld from an Obligated Party's Monthly Wages in Execution of a Decision and Setting the Amount Above which Wages Are Subject to Withholding Without Limitation.

[163] Regulation of the Government of the Czech Republic No. 251/1992 Coll., on Wages of Employees in Organizations Funded from the Budget and Certain Other Organisations, as subsequently amended.

[164] Regulation of the Government of the Czech Republic No. 79/1994 Coll., on Salaries of Employees of the Armed Forces, Security Corps and Services, Customs Administration Bodies, Officers of the Fire Safety Corps and Employees of Certain Other Organisations, as subsequently amended.

[165] Until now, after withholding social and health insurance and advances on income tax of natural persons, an employee who worked for the minimum wage was paid a wage which did not even reach the level of subsistence for an individual.

[166] Resolution of the Government of the Czech Republic of 5 August 1998 No. 504, on the Programme Declaration of the Government.

[167] Under Decree of the Government No. 333/1993 Coll., on Setting Minimum Wage Levels and Wage Advantages for Work in a Difficult Work Environment or a Work Environment Damaging to Health and Work at Night, as subsequently amended.

[168] Act No. 463/1991 Coll., on the Subsistence Level, as subsequently amended. The amounts of the subsistence level were last set by amendment of Act No. 42/1998 Coll., which increases the amounts of the subsistence level. More detail is in the section on article 11 of the Covenant.

[169] On 30 November 1999 the Ministry of Labour and Social Affairs submitted the following drafts to the Government for discussion: (a) a draft act amending Act No. 65/1965 Coll., the Labour Code, as subsequently amended, and certain other Acts (passed by the Chamber of Deputies of parliament on 18 April 2000); (b) a draft of Act No. 1/1992 Coll., on Wages, Remuneration for Stand-by Work and Average Earnings, as subsequently amended; (c) a draft of Act No. 143/1992 Coll., on Wages and Remuneration for Stand-by Work in Organisations Funded from the Budget and Certain Other Organisations and Bodies, as subsequently amended.

[170] Act No. 328/1991 Coll., on Bankruptcy and Settlement, as subsequently amended.

[171] Resolution of the Government of the Czech Republic of 15 November 1999 No. 1209, appendix - Overview of Legislative Proposals By which the Government Will Directly Respond to the European Commission's Regular Report for 1999 on the Czech Republic. The Parliament of the CR approved the Act in March 2000.

[172] EC Council Directive No. 80/987/EEC of 20 October 1980 concerns protection of employees in case of employer insolvency.

[173] Act No. 174/1968 Coll., on State Specialized Supervision of Work Safety, as subsequently amended, in particular as amended by Act No. 47/1994 Coll.

[174] Act No. 20/1966 Coll., on Public Health, as subsequently amended.

[175] Act No. 61/1988 Coll., on Mining Activity, Explosives and on the State Mining Administration, as subsequently amended.

[176] Decree of the Ministry of Health No. 45/1966 Coll., on the Creation and Protection of Healthy Living Conditions, as subsequently amended.

[177] Decree of the Czech Office of Work Safety and the Czech Mining Office No. 110/1975 Coll., on a Register and Registration of Work Injuries and on Reporting Operating Accidents and Breakdowns of Technical Facilities, as subsequently amended.

[178] Decree of the Ministry of Labour and Social Affairs of the CR No. 204/1994 Coll., which Sets the Scope and More Detailed Conditions for Providing Personal Work Safety Equipment and Washing, Cleaning and Disinfecting Materials, as amended by Decree No. 279/1998 Coll.

[179] Decree of the Czech Work Safety Office No. 48/1982 Coll., which Sets Basic Requirements for Ensuring Safety of Work and Technical Facilities, as subsequently amended.

[180] In the amendment to the Labour Code being prepared, work time and vacation are governed in accordance with the EC Council Directive on certain aspects of setting work time (93/104/EC).

[181] Decree of the Ministry of Labour and Social Affairs No. 63/1968 Coll., on Principles for Shortening the Work Week and for Introducing Operating and Working Regimes with a Five-Day Work Week, as amended by Decree No. 200/1968 Coll. and other amendments and supplements.

[182] Act No. 93/1951 Coll., on State Holidays, on Non-Work Days, and on Memorial and Significant Days, as subsequently amended.

[183] Act No. 1/1992 Coll., on Wages, Remuneration for Stand-by Work and on Average Earnings, as subsequently amended.

[184] Act No. 143/1992 Coll., on Wages and Remuneration for Stand-by Work in Organizations Funded from the Budget and Certain Other Organizations and Bodies, as subsequently amended.

[185] Act No. 83/1990 Coll., on Association of Citizens, as subsequently amended, in particular Act No. 300/1990 Coll., Act No. 513/1991 Coll. and Act No. 68/1993 Coll.

[186] Notification of the Federal Ministry of Foreign Affairs No. 489/1990 Coll., Convention on the Freedom of Association and Protection of the Right to Organise.

[187] Notification of the Federal Ministry of Foreign Affairs No. 470/1990 Coll., Convention on the Right to Organise and Collective Bargaining.

[188] Act No. 100/1988 Coll., on Social Security, as subsequently amended.

[189] Act No. 117/1995 Coll., on State Social Care Support, as subsequently amended.

[190] Act No. 482/1991 Coll., on Social Neediness, as subsequently amended.

[191] Act No. 155/1995 Coll., on Pension Insurance, as subsequently amended.

[192] Act No. 54/1956 Coll., on Employee Sickness Insurance, as subsequently amended.

[193] Act No. 582/1991 Coll., on Organisation and Implementation of Social Security, as subsequently amended.

[194] Act No. 589/1992 Coll., on Social Security and State Employment Policy Premiums Act, as subsequently amended.

[195] Act No. 42/1994 Coll., on State-Contributory Supplementary Pension Insurance and amending Certain Acts Related to its Implementation, as subsequently amended.

[196] Until 1995 the age was 60 for men and 53 to 57 for women (depending on the number of children raised).

[197] Act No. 42/1994 Coll., on State-Contributory Supplementary Pension Insurance and Amending Certain Acts Related to its Implementation, as subsequently amended.

[198] Twice in 1996, then in 1997 and 1998. They were last increased by Decree of the Government of the Czech Republic No. 104/1998 Coll., on Increasing Pensions in 1998, in July 1998.

[199] Act No. 589/1992 Coll., on Social Security and State Employment Policy Premiums Act, as subsequently amended. Participation is compulsory for all employees conducting employment non-entrepreneurial activity, with the exception of employees who perform this activity to a small extent or occasionally. Pupils and students preparing for a future occupation are also subject to it (they are entitled only to financial assistance for maternity). Self-employed persons have sickness insurance if they themselves register for it (and then they are provided only sickness benefits and financial assistance for maternity).

[200] Under section 2 of Decree of the Ministry of Labour and Social Affairs of the CR No. 31/1993 Coll., on Assessment of Temporary Incapacity for Work for Purposes of Social Security, as subsequently amended.

[201] This amount was set by an amendment to Act No. 61/1999 Coll., on Sickness Insurance, in effect as of 1 October 1999. Until then, sickness benefits were calculated from a maximum amount of CK 270.

[202] Act No. 1/1991 Coll., on Employment, as subsequently amended, sections 12 to 18.

[203] Act No. 117/1995 Coll., on State Social Care Support, as subsequently amended.

[204] Permanent residence under this Act also means long-term residence granted to foreigners under special Acts: section 6 of Act No. 123/1992 Coll., on Foreigners' Stay and Residence in the Czech and Slovak Federal Republic, as subsequently amended, setion 4 of Act

No. 135/1982 Coll., on reporting and registration of the residence of citizens, section 7 and section 19, paragraph 3, of Act No. 123/1992 Coll., on Foreigners' Stay and Residence in the Czech and Slovak Federal Republic, as subsequently amended. Under Act No. 498/1990 Coll., on Refugees, as subsequently amended, a person who has been granted refugee status is also considered a person with permitted long-term residence, and meets the condition for State welfare support benefits.

[205] Therefore, at first glance section 3, paragraph 1, of the Act is not entirely in accordance with the obligation arising from article 2, paragraph 1, and article 3, paragraphs 1 and 2, of the Convention on the Rights of the Child. Article. 2, paragraph 1 of the Convention on the Rights of the Child: "States parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status." Article 3, paragraph 1: "In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration". Article 3, paragraph 2: "States parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents and, to this end, shall take all appropriate legislative and administrative measures."

[206] Amendment No. 158/1998 Coll., to Act No. 117/1995 Coll., on State Social Care Support, as subsequently amended.

[207] Amendment No. 137/1996 Coll., to Act No. 117/1995 Coll., on State Social Care Support, as subsequently amended.

[208] As of 1 January 2000, an amendment is in effect to the legal regulations governing the stay of foreigners in the Czech Republic, and as of 1 April 2000 this amendment will also be reflected in the legal regulation governing eligibility for State welfare support. From that date, entitlements for State welfare support for persons with permanent residence, children entrusted to alternative family care and persons granted asylum (previously refugees) will all be assessed the same way as before, 1 April 2000. In other cases of temporary residence in the Czech Republic (which also include long-term residence under the legal regulation governing stays of foreigners in effect before 1 January 2000) entitlements to State welfare support will be tied to a stay in the Czech Republic of 365 days, which basically corresponds to the previous periods of long-term residence of one year. In this way provision of entitlements to welfare support, when it is justified on the basis of the length of stay, from cases where foreigners remain in the Czech Republic only for a short time, e.g. as tourists. However, the provision remains in effect which permits a district office or the Ministry of Labour and Social Affairs to waive the condition of permanent residence, and thus restrict possible harshness in applying the Act.

[209] Act No. 463/1991 Coll., on the Subsistence Level, as subsequently amended.

[210] Act No. 482/1991 Coll., on Social Neediness, as subsequently amended.

[211] Act No. 463/1991 Coll., on the Subsistence Level, as subsequently amended.

[212] Jointly evaluated persons are, under section 4 of the Act on the Subsistence Level, primarily dependent children and their parents, spouses, a male or female partner and other persons who live together permanently and jointly pay expenses to meet their needs.

[213] Under section 6 of the Act on the Subsistence Level, this income means income which is subject to individual income tax, financial benefits of sickness insurance and pension insurance, material security of job seekers, support payments, State welfare benefits and social care benefits, with the exception of one-time benefits, and other repeating or regular income.

[214] Government Regulation No. 42/1998 Coll., which Increases the Amount of the Subsistence Level. After fulfilment of the increase condition in January 2000 the subsistence level will be increased with effect as of 1 April 2000 (Government Regulation, which the Government approved by resolution of 8 March 2000 No. 243).

[215] Section 2 of the Act on Social Neediness: "(1) If a citizen's state of health requires, according to the recommendation of the appropriate specialized doctor, increased expenses for diet, the amount necessary to provide food and other basic personal needs of the citizen provided by a special act [section 3, paragraph 2, of Act No. 463/1991 Coll.], when evaluating social neediness, is increased by 600 CK per month. (2) The amount necessary to ensure necessary household expenses set by a special act [section 3, paragraph 3, of Act No. 463/1991 Coll.], when evaluating social neediness of citizens who were allocated special advantages at level III (ID card ZTP/P), is increased by CK 600 per month. For jointly evaluated persons, the increase under the previous sentence is calculated at most twice, even if extraordinary advantages of level III (ID card ZTP/P) were granted to several persons living in the household" (section 115 of Act No. 40/1964 Coll., the Civil Code, as subsequently amended).

[216] The social care system is governed by Act No. 100/1988 Coll., on Social Security, as subsequently amended, Act No. 482/1991 Coll., on Social Neediness, as subsequently amended, Decree of the Ministry of Labour and Social Affairs No. 182/1991 Coll., which implements the Social Security Act and the Act of the Czech National Council on Jurisdiction of Bodies of the Czech Republic in Social Security, as subsequently amended, and other legal regulations.

[217] Under section 105 of Act No. 94/1963 Coll., on the Family, as amended by Act No. 91/1998 Coll., which Amends the Act on the Family and Amends and Supplements Other Acts, the institution of common property replaces the previous institution of undivided ownership.

[218] M. Holub and H. Nová, (1998): The Act on the Family and Related Regulations, Prague, Linde Praha, pp. 36 - 61.

[219] Act No. 100/1988 Coll., on Social Security, as subsequently amended.

[220] Act No. 114/1988 Coll., on the Jurisdiction of Authorities of the CR in Social Security, as subsequently amended.

[221] Protection of women's health at work has been newly defined by the generally binding legal regulation, which is a procedural Decree of the Ministry of Health amending the Labour Code, No. 261/1997 Coll., that Determines Work Assignments and Workplaces Prohibited to All Women, Pregnant Women and Mothers until the Ninth Month after Delivery and to Juveniles. The extensive provisions of articles 1 to 3 of the Decree also define these types of work and workplaces.

[222] Act No. 88/1968 Coll., on Extending Maternity Leave, on Benefits in Maternity and on Benefits for Children from Sickness Insurance, as subsequently amended.

[223] United Nations Children's Fund (UNICEF).

[224] Centre Européen d'Etudes sur les Polyphosphates (CEEP).

[225] European Trade Union Conference (ETUC).

[226] Act No. 117/1995 Coll., on State Social Care Support, as subsequently amended.

[227] The importance of this measure, as well as of all other welfare benefits has been gradually declining in recent years; this can be documented by the fact that while expenses for these welfare benefits are increasing, their percentage of GDP is declining over the long term.

[228] Act No. 382/1990 Coll., on the Parental Benefit, as subsequently amended.

[229] Act No. 66/1986 Coll., on Abortion.

[230] Notification of the Federal Ministry of Foreign Affairs No. 104/1991 Coll., on the Convention on the Rights of the Child.

[231] Participants at the World Summit adopted the document "World Declaration on Survival, Protection and Development of Children".

[232] Resolution of the Government of the Czech Republic of 6 January 1999 No. 1, on the Outline of State Policy in Relation to the Young Generation in the Czech Republic until 2002.

[233] Resolution of the Government of the Czech Republic of 7 July 1999 No. 696, which approved the Committee's statute.

[234] Act No. 359/1999 Coll., on Social Legal Protection of Children.

[235] However, even before the new Act went into effect, protection of children from social pathologies and preventative and counselling activities were part of the work of social affairs departments in district or city offices and non-governmental non-profit organizations supported by subsidies from the State budget.

[236] Resolution of the Government of the Czech Republic of 15 June 1994 No. 341, on the Program of Social Prevention and Crime Prevention - Current Situation and Starting Points until 1996.

[237] Act No. 200/1990 Coll., on Offences, as subsequently amended.

[238] Act No. 65/1965 Coll., the Labour Code, as subsequently amended.

[239] Decree of the Minister of Health No. 261/1997 Coll., Setting Work and Workplaces which Are Forbidden to all Women, Pregnant Women, Mothers until the End of the ninth month After Childbirth and Juveniles, and Conditions under Which Juveniles May Exceptionally Perform this Work for Reasons of Training for Occupations, as subsequently amended.

[240] Act No. 468/1991 Coll., on Radio and Television Broadcasting, as subsequently amended.

[241] Act No. 273/1993 Coll., on Certain Conditions for the Production, Dissemination and Archiving of Audio-Visual Works, and Amending and supplementing Certain Acts and Certain other Regulations.

[242] Act No. 40/1995 Coll., on Regulation of Advertising, as subsequently amended.

[243] Act No. 140/1991 Coll., the Criminal Code, as subsequently amended.

[244] Resolution of the Government of the Czech Republic of 15 April 1992 No. 273, on the National Health Program.

[245] Decree of the Ministry of Finance No. 176/1993 Coll., on Rent from Dwellings and Payment for Services Provided with Use of a Dwelling, as subsequently amended.

[246] Act No. 102/1992 Coll., which Amends Certain Questions Related to Promulgation of Act No. 509/1991 Coll., which Amends, Supplements and Adjusts the Civil Code, as subsequently amended.

[247] Under Act No. 117/1995 Coll., on State Social Care Support , as subsequently amended; sections 26 et seq.

[248] Under Act No. 132/1997 Coll., on the Welfare Benefit Compensating for Rent and Amending Act No. 117/1995 Coll., on State Social Care Support , as subsequently amended.

[249] Under Act No. 75/1997 Coll., on the Welfare Benefit Compensating for the Price Increase in Heating Fuel.

[250] Source of information: draft concept of housing policy, the part "Principles of a New Welfare Contribution for Rent". See resolution of the Government of the Czech Republic of 18 October 1999 No. 1088, on the Outline of Housing Policy.

[251] Act No. 102/1992 Coll., which Amends Certain Questions Related to Promulgation of Act No. 509/1991 Coll., which Amends, Supplements and Adjusts the Civil Code.

[252] Act No. 72/1994 Coll., which Regulates Certain Co-ownership Rights to Buildings and Certain Ownership Rights to Dwellings and Non-residential Premises and Supplements Certain Acts (the Act on Dwelling Ownership), as amended by Act No. 273/1994 Coll.

[253] Act No. 526/1990 Coll., on Prices, as subsequently amended.

[254] Act No. 367/1990 Coll., on Municipalities, as subsequently amended.

[255] Act No. 418/1990 Coll., on the Capital City of Prague, as subsequently amended.

[256] Decree of the Ministry of Finance No. 85/1997 Coll., on Rent from Dwellings Established in Cooperative Houses and Consideration for Services Provided with Use of These Dwellings.

[257] Act No. 140/1961 Coll., the Criminal Code, as subsequently amended.

[258] Act No. 50/1976 Coll., on Zoning and the Building Code (the Building Act), as subsequently amended and related and implementing regulations.

[259] Act No. 265/1992 Coll., on Registration of Ownership and Other Substantive Rights to Real Estate, as subsequently amended.

[260] Act No. 344/1992 Coll., on the Real Estate Register (the Real Estate Register Act), as subsequently amended.

[261] Act No. 427/1990 Coll., on Transfers of State Ownership of Certain Things to Other Legal Entities or Natural Persons, as subsequently amended.

[262] Act No. 229/1990 Coll., Regulating Ownership of Land and other Agricultural Property, as subsequently amended.

[263] Act No. 92/1991 Coll., on Conditions for Transfer of State Property to Other Persons, as subsequently amended.

[264] Act No. 172/1991 Coll., on the Transfer of Certain Things from the Ownership of the Czech Republic to the Ownership of Municipalities, as subsequently amended.

[265] Act No. 42/1992 Coll., Act Regulating Ownership Relations and Settling Property Entitlements in Cooperatives, as subsequently amended.

[266] Act No. 151/1997 Coll., on Property Assessment and Amending Certain Acts.

[267] The landlord may give notice terminating the lease of an apartment only with the consent of the (appropriate) court and only for the following reasons: (a) if he needs the apartment for himself, his spouse, his children, grandchildren, son-in-law or daughter-in-law, his parents or siblings; (b) if the tenant has ceased to perform work for the landlord and the landlord needs the apartment for another tenant who will work for him; (c) if the tenant or those who live with him, despite a written warning, grossly breach proper morals in the building; (d) if the tenant grossly breaches his obligations arising from lease of the apartment, particularly by not paying rent or fees for services related to use of the apartment for a period longer than three months; (e) if it is necessary, for reasons of the public interest, to dispose of the apartment or building so that it cannot be used, or if the apartment or building needs repairs during which it cannot be used for a longer period of time; (f) if the apartment is structurally connected to premises designated for operating a store or some other business activity and the tenant or owner of these non-residential premises wants to use the apartment; (g) if the tenant has two or more apartments, unless he cannot justly be required to use only one apartment; (h) if the tenant fails, without serious reasons, to use the apartment, or if he uses the apartment, without serious reasons, only occasionally; (i) if the apartment has a special designation or is in a building with special designation and the tenant is not a handicapped person.

[268] Act No. 117/1995 Coll., on State Social Care Support , as subsequently amended.

[269] Act No. 586/1992 Coll., on Income Taxes, as subsequently amended.

[270] Act No. 96/1993 Coll., on Building Savings Accounts and State Support of Building Savings Accounts and Supplementing Act No. 586/1992 Coll., on Income Taxes, as amended by Act No. 83/1995 Coll.

[271] Government Decree No. 244/1995 Coll., which Sets Conditions for State Financial Support for Mortgage Loans for House Building, as subsequently amended. Government Decree No. 149/1997 Coll., which Sets Conditions for Providing Additional Financial Support for Mortgages for House Building.

[272] Government Decree No. 148/1997 Coll., on Providing Interest-Free Loans for House Building, as subsequently amended.

[273] Act No. 50/1976 Coll., on Zoning and the Building Code (the Building Act), as subsequently amended.

[274] Decree of the Ministry for Local Development No. 131/1998 Coll., on Bases for Zoning and Zoning Documentation.

[275] Decree of the Ministry for Local Development No. 137/1998 Coll., on General Technical Requirements for Construction.

[276] Act No. 244/1992 Coll., on Evaluating Effects on the Environment.

[277] Halfway houses are social facilities, houses or apartment units in which housing and social services are offered, e.g. to young people released from school facilities for institutional education or protective custody after reaching the age of majority, persons released from serving prison sentences or from treatment centres for people addicted to narcotics, etc.

[278] Act No. 102/1992 Coll., which Amends Certain Questions Related to Promulgation of Act No. 509/1991 Coll., which Amends, Supplements and Adjusts the Civil Code, as subsequently amended.

[279] Act No. 95/1999 Coll., on Conditions for Transfer of Agricultural and Forest Lands from State Ownership to Other Persons and Amending Act No. 569/1991 Coll., on the Land Stock of the CR, as subsequently amended.

[280] Act No. 357/1992 Coll., on Inheritance, Gift and Real Estate Transfer Tax, as subsequently amended.

[281] Regulation concerns particularly lease contracts concluded before 1993, regardless of the tenant's actual social situation, and contracts concluded on the basis of transfer of a lease or exchange of apartments in cases where rent was regulated under the original lease contracts. In 1999 this type of regulation applied to 95.3 per cent of all rental apartments and 29.4 per cent of the total housing stock. Fewer than 5 per cent of rental dwellings have freely negotiated - market - rent or rent regulated as expenses (particularly State-subsidized new municipal housing). Thus, rent is regulated across the board, including in apartments where the tenant's social situation does not require rent regulation.

[282] Article 11, paragraph 4, of the Charter: "Expropriation or some other mandatory limitation upon property rights is permitted in the public interest, on the basis of law, and for compensation".

[283] Resolution of the Government of the Czech Republic of 18 October 1999 No. 1088, on an Outline of Housing Policy.

[284] Act No. 222/1994 Coll., on Conditions for Conducting Business and State Administration in the Energy Sectors and on the State Energy Inspection, as subsequently amended.

[285] Resolution of the Government of the Czech Republic of 9 March 1994 No. 122, on Fundamental Principles of Agriculture Policy until 1995 and for Later Periods.

[286] Regulation of the Government of the Czech Republic No. 341/1997 Coll., which Provides Support Programs to Support Non-Production Roles of Agriculture, to Support Activities Contributing to Preserving the Countryside and Assistance Programs to Support Less Favourable Areas, and Government Regulation No. 24/1999 Coll., which Provides Support Programs to Support Non-Production Roles of Agriculture, to Support Activities Contributing to Preserving the Countryside and Assistance Programs to Support Less Favourable Areas for 1999.

[287] World Trade Organization (WTO).

[288] Act No. 348/1997 Coll., on the State Budget of the Czech Republic for 1998.

[289] Under Government resolution of 15 March 1995 No. 153, on the Principles for Providing Foreign Aid, as amended by Government resolution of 19 June 1996 No. 342, on the foreign aid plan for 1997 and amending Government resolution of 15 March 1995 No. 153.

[290] Act No. 110/1997 Coll., on Food and Tobacco Products, as subsequently amended.

[291] Approved by resolution of the Government of the Czech Republic of 9 December 1998 No. 810, on the Action Plan for Health and the Environment of the Czech Republic (the National Environmental Health Action Plan -NEHAP).

[292] Resolution of the Government of the Czech Republic of 15 April 1992 No. 273, on the National Program for Renewal and Support of Health and the Draft Project for Medium-Term Strategy for Renewal and Support of Health.

[293] Resolution of the Government of the Czech Republic of 22 July 1991 No. 247, on the National Program for Renewal and Support of Health.

[294] Approved by resolution of the Government of the Czech Republic of 15 April 1992 No. 273, on the National Program for Renewal and Support of Health and the Draft Project for Medium-Term Strategy for Renewal and Support of Health.

[295] World Health Organization (WHO).

[296] Act No. 20/1966 Coll., on Public Health, as subsequently amended.

[297] Act No. 48/1997 Coll., on Public Health Insurance, as subsequently amended.

[298] Act No. 592/1992 Coll., on Premiums for General Health Insurance, as subsequently amended.

[299] Act No. 468/1991 Coll., on Radio and Television Broadcasting, as subsequently amended.

[300] Act No. 40/1995 Coll., on Regulating Advertising, as subsequently amended.

[301] Act No. 66/1986 Coll., on Abortion. Decree of the Ministry of Health No. 75/1986 Coll., Implementing Act No. 66/1986 Coll., on Abortion.

[302] International Planned Parenthood Federation - IPPF.

[303] Act No. 20/1996 Coll., on Public Health, as subsequently amended.

[304] The Charter of Sexual and Reproductive Rights of the IPPF (1997), p. 6. The Society for Family Planning, Prague.

[305] Decree of the Ministry of Health No. 60/1997 Coll., on Dispensary Care.

[306] Report on the situation and developments in drug matters in the Czech Republic for 1998, prepared by the Inter-Ministerial Drug Commission on the basis of materials from the relevant ministries.

[307] Resolution of the Government of the Czech Republic of 23 February 1998 No. 111, on the Outline and Program of Anti-Drug Policy for 1998-2000.

[308] Act No. 48/1997 Coll., on Public Health Insurance, as subsequently amended

[309] Decree of the Ministry of Health CR No. 48/1991 Coll., on Inoculation against Contagious Diseases, as subsequently amended.

[310] Act No. 79/1997 Coll., on Medicines and Amending and Supplementing Certain Related Acts.

[311] Resolution of the Government of the Czech Republic of 20 February 1991 No. 47, the National AIDS Prevention Program.

[312] Act No. 37/1989 Coll., on Protection from Alcoholism and Other Toxin Addictions, as subsequently amended.

[313] Act No. 123/1998 Coll., on the Right to Information about the Environment.

[314] Inter-Ministerial Agreement on Cooperation in Environmental Information, Education and Training between the Ministry of Education, Youth and Sports and the Ministry of the Environment, signed by the Ministers on 8 December 1999.

[315] Government resolution of 14 April 1999 No. 323, on State Environmental Policy.

[316] These documents are available in full text versions on the Web page of the Ministry of the Environment.

[317] Act No. 138/1973 Coll., on Waters (the Water Act), as subsequently amended.

[318] Act No. 389/1991 Coll., on Protection of the Air from Pollutants (the Air Act), as subsequently amended.

[319] Act No. 86/1995 Coll., on protection of the Earth's Ozone Layer.

[320] Decree of the Ministry of the Environment No. 41/1992 Coll., which Defines Areas Requiring Special Protection of the Air and Sets Principles for the Creation and Operation of Smog Regulation Systems and Certain Other Measures for Air Protection, as subsequently amended.

[321] Measure of the Federal Committee for the Environment No. 33/1991 Coll., concerning Act No. 309/1991 Coll., on Protection of the Air from Pollutants, as subsequently amended.

[322] Act No. 114/1992 Coll., on Protection of Nature and the Countryside, as subsequently amended, and implementing Decree of the Ministry of the Environment of the Czech Republic No. 395/1992 Coll., implementing certain provisions of Act No. 114/1992 Coll., on Protection of Nature and the Countryside, as subsequently amended.

[323] Government resolution of 17 June 1998 No. 415, the State Program for Protection of Nature and the Countryside in the Czech Republic.

[324] Approved by Government resolution of 17 June 1998 No. 413, on the Transportation Policy of the Czech Republic.

[325] Act No. 125/1997 Coll., on Wastes, as amended by Act No. 167/1998 Coll.

[326] Government Decree No. 31/1999 Coll., which Sets Forth a List of Products and Wrappers to which a Duty of Return Applies, and Details of Handling Wrappers, Wrapping Materials and Wastes from Used Products and Wrappers.

[327] Act No. 244/1992 Coll., on Evaluation of Environmental Impact.

[328] Act No. 44/1988 Coll., on Use of Mineral Wealth (the Mining Act), as subsequently amended.

[329] The European Commission report of 1999 on the Czech Republic's progress in accepting ecological standards states that, despite deviations in detail, the laws on the environment and industrial hygiene in the country qualitatively match European Community standards. On the other hand, the European Commission criticized the slow acceptance of other necessary norms, and particularly slowness in creating institutions which promote observance of the laws and appropriately penalize violation of the laws. The report also states that correction of this situation will be very demanding financially, primarily in terms of public funds. Harmonizing legislation and creating the necessary institutional framework is to be completed by the date of the expected entry into the European Union, i.e. 1 January 2003.

[330] Act No. 18/1997 Coll. on Peaceful Use of Atomic Energy and Ionizing Radiation (the Atomic Act).

[331] Resolution of the Government of the Czech Republic of 9 December 1998 No. 810, on the Action Plan for Health and the Environment.

[332] Resolution of the Government of the Czech Republic of 7 April 1999 No. 296, on the Council for Health and the Environment (statute, composition and activity plan).

[333] The programme was approved by resolution of the Government of the Czech Republic of 2 October 1991 No. 369, on the draft System for Monitoring the Health of the Population in Relation to the Environment.

[334] Act No. 20/1966 Coll., on Public Health, as subsequently amended.

[335] Decree of the Ministry of Health No. 45/1966 Coll., on Creation and Protection of Healthy Living Conditions, as subsequently amended.

[336] Government Regulation No. 290/1995 Coll., which Sets Out a List of Occupational Diseases.

[337] Decree of the Ministry of Health No. 91/1984 Coll., on Inoculation against Contagious Diseases, as subsequently amended.

[338] Decree of the Ministry of Health No. 91/1984 Coll., on Measures against Contagious Diseases, as subsequently amended.

[339] E.g. Decree of the Ministry of Education, Youth and Sports No. 291/1991 Coll., on Elementary School, and Decree No. 354/1993 Coll., on Secondary Schools, as subsequently amended.

[340] Special classes are for hearing, visually, physically or mentally disabled children, for children with speech defects and with multiple disabilities. Specialized classes are for children with specific behavioural and learning development disorders (see Decree of the Ministry of Education, Youth and Sports No. 127/1997 Coll., on Special Schools and Special Kindergartens).

[341] After fifth grade of elementary school to an eight-year grammar school and after seventh grade to a six-year grammar school.

[342] Schools with few grades are schools where several classes are taught in one classroom. Incompletely organized schools do not have all grades, but each of them has its own classroom. Usually schools with only the first level are established; schools with only the second level are rare.

[343] Act No. 111/1998 Coll., on Universities.

[344] Act No. 111/1998 Coll., on Universities and Amending and Supplementing Other Acts (the Act on Universities).

[345] Act No. 155/1998 Coll., on Sign Language and Amending Other Acts.

[346] Statistics from the 1993/94 school year.

[347] Act No. 468/1991 Coll., on Radio and Television Broadcasting, as subsequently amended.

[348] Author: Karel Mráček, Publishing House Krystal O.P., Prague, 1995.

[349] Author: Milan Valenta, Publishing House Práce, Prague, 1998.

[350] See also Decree of the Ministry of Education, Youth and Sports and the Ministry of Health No. 452/1991 Coll., on the Establishment and Activities of Parochial Schools and Schools of Religious Societies.

[351] Resolution of the Government of the Czech Republic of 9 December 1998 No. 809, on Measures for Improving Protection of Human Rights in the Czech Republic.

[352] Resolution of the Government of the Czech Republic of 11 January 1999 No. 35, on measures related to the Romani minority.

[353] Resolution of the Government of the Czech Republic of 7 April 1999 No. 279, on the Outline of Government Policy toward Members of the Romani Minority, Assisting Their Integration into Society.

[354] Resolution of the Government of the Czech Republic of 28 July 1999 No. 789, on Measures against Movements Aimed at Suppressing the Rights and Freedoms of Citizens.

[355] Resolution of the Government of the Czech Republic of 11 January 1999 No. 34, on Preparation of a Campaign Against Racism.

[356] Resolution of the Government of the Czech Republic of 9 February 1994 No. 63, Outline of the Government's Approach to Issues of Minorities in the Czech Republic.

[357] See ref. No. 18062/96-21, Bulletin of the Ministry of Education, Youth and Sports No. 7, year 1996.

[358] Decree of the Ministry of Education, Youth and Sports No. 291/1991 Coll., on Elementary Schools.

[359] Under Government Decree No. 153/1996 Coll., which Sets Fees for Education in Post-Secondary Occupational Schools Established by the State and the Manner of Their Payment.

[360] Act No. 29/1984 on the System of Elementary, Secondary and Post-Secondary Occupational Schools (the Schools Act), as subsequently amended, Part four - Special schools:

Section 28:

> "(1) Specialized schools, through special training and educational methods, means and forms, provide upbringing and education to pupils with mental, sensory or physical handicaps, pupils with speech defects, pupils with multiple disabilities, pupils difficult to

raise and pupils who are ill and weakened, placed in health care facilities; they prepare these pupils for integration in the work process and the life of the society.

"(2) Specialized schools include elementary specialized schools and secondary specialized schools; education acquired in these schools is equivalent to education acquired in elementary school and other secondary schools.

"(3) Unless this Act provides otherwise, provisions which apply to elementary or secondary schools apply to specialized schools.

"(4) Specialized schools also include special schools, vocational schools, practical schools and remedial schools.

"(5) The Ministry shall set by decree the method of classifying pupils in special elementary schools, specialized schools and remedial schools, and conditions for accepting pupils to vocational schools and practical schools."

Section 29: Specialized elementary schools

"(1) Specialized elementary schools provide upbringing and education to pupils under sections 5 and 6 in a manner commensurate with their disability; they are established as schools for hearing disabled pupils, for visually disabled pupils, for pupils with speech defects, for pupils with physical disabilities, for students with multiple disabilities, for pupils who are difficult to bring up and for pupils who are ill and weakened, placed in health care facilities.

"(2) Specialized elementary schools have nine grades. The Ministry shall specify by decree which schools have ten grades."

Section 30: Specialized secondary schools

"(1) Specialized secondary schools provide upbringing and education to pupils under sections 7 and 8 in a manner commensurate to their disability; special secondary schools educate pupils with sensory or physical disabilities and pupils who are difficult to bring up, if they cannot be educated together with pupils of other secondary schools.

"(2) Specialized secondary schools are divided into these kinds: secondary vocational schools, grammar schools and secondary occupational schools.

"(3) After discussion with the Ministry of Health, the Ministry may, by generally binding legal regulation, extend the length of study in special secondary schools by up to two years."

Section 31: Special schools

"(1) Special schools educate pupils with intelligence shortcomings such that they cannot be successfully educated in elementary or specialized elementary schools.

"(2) Special schools have nine grades. The Ministry shall specify by decree which schools have ten grades."

Section 32: Vocational schools

"(1) Vocational schools provide occupational training in trades with regulated teaching plans.

"(2) Vocational schools prepare pupils for performance of a trade corresponding to the field taught. Preparation lasts two to three years. Preparation at vocational schools is completed by passing a final examination.

"(3) A trade school can also provide preparation for performance of simple activities by pupils who are able to work independently but whose work and social placement must be guided by other persons.

"(4) Vocational schools accept pupils who have successfully completed the ninth grade of a special school.

"(5) Vocational schools are established under section 10 and are subject to section 9, paragraphs 3 and 4, section 10 (a), sections 11, 11 (a), 12, section 20, paragraph 2, sections 22 to 24 and section 25, paragraphs 1 to 4 and paragraphs 6 to 8."

Section 32 (a): Practical schools

"(1) Practical schools prepare pupils for performance of simple activities. Preparation lasts one to three years.

"(2) Priority in acceptance to practical schools is given to pupils who successfully completed special school and pupils who completed compulsory education in a grade lower than the ninth grade of a special school or elementary school. In justified cases, pupils who failed to complete the ninth grade of elementary school can also be accepted. Practical schools with one-year and two-year courses accept pupils who completed compulsory education at a special (sect. 31) or remedial school (sect. 33).

"(3) Three-year preparation in practical school is completed by passing a final examination, or, in a one-year or two-year preparation course, by a final report card."

Section 33 Remedial schools

> "(1) Remedial schools bring up and educate pupils who are difficult to bring up, with such shortcomings in intelligence that they cannot be educated even in a special school, but are capable of acquiring at least some elements of education. The content of teaching is aimed at developing habits of self-care, personal hygiene, and at developing commensurate knowledge and working ability with objects of daily use.
>
> "(2) Remedial schools have ten grades.
>
> "(3) Before entering remedial schools and before being released from compulsory education under section 37, paragraph 2, children with severe mental disability are given an opportunity for preparatory education of one to three years."

[361] According to an estimate from the Inter-Ministerial Commission for Roma Community Affairs, over half the pupils of special schools are Roma and roughly 70 per cent of all Romani children attend special schools.

[362] Resolution of the Government of the Czech Republic of 29 October 1997 No. 686, on the Report on the Situation of the Roma Community in the Czech Republic and on the current situation in the Roma community charged the Minister of Education to prepare new materials for testing children when assigning them to special schools and to consider the more idiosyncratic preconditions of Roma children, and thereby to limit the previous practice of frequent assignment of Roma children to special schools without documented reasons evidencing intellectual or educational needs. Preparation of the new methods for testing children (not only Roma children) was not completed in the report period.

[363] Act No. 19/2000 Coll., which amends Act No. 29/1984 Coll., on the System of Elementary, Secondary and Post-Secondary Occupational Schools (the Schools Act), as subsequently amended.

[364] The original wording of section 19 of the Schools Act: "Secondary schools … accept pupils and other applicants who have successfully completed elementary school." The new wording of section 19: "Secondary schools ... accept pupils and other applicants who have completed compulsory education and who, in the application process, met the conditions for acceptance by demonstrating suitable abilities, knowledge, interests and health capacity required for the chosen education field."

[365] Establishing preparatory classes in special schools is subject to criticism, as they do not introduce children into the natural environment of standard elementary schools or kindergartens.

[366] Under statute of the Ministry of Education, Youth and Sports No. 12748/97-20 and its subsequent amendment ref. No. 14169/98-22 (for kindergartens).

[367] The Government, in resolution of 29 October 1997 No. 686, on the Report on the Situation of the Roma Community in the Czech Republic, charged the Minister of Education, Youth and Sports to "expand the network of preparatory classes in the elementary education system for pupils from a linguistically and socioculturally disadvantaged environment".

[368] Under statute of the Ministry of Education, Youth and Sports for Experimental Testing of Preparatory Classes No. 12748/97-20.

[369] In accordance with the Instruction for Supplementing Education Provided By Elementary Schools for Graduates of Special Schools, issued by the Ministry of Education, Youth and Sports under No. 17 908/95-24.

[370] On the basis of section 4, paragraph 10, of Decree of the Ministry of Education, Youth and Sports No. 127/1997 Coll., on Special Schools and Special Kindergartens, and Intended for Citizens Who Have Completed Compulsory Education in a Lower Grade of a Special School.

[371] Instruction of the Ministry of Education, Youth and Sports No. 17908/95-24, on Supplementing Education Provided By an Elementary School for Graduates of Special Schools, and Instruction No. 18371/96-24, on Supplementing Education Provided By a Special School.

[372] Resolution of the Government of the Czech Republic of 8 September 1993 No. 493, approving the document "National plan for measures to reduce the negative consequences of medical disability".

[373] Decision of the Deputy Minister of Education No. 19096/97-24, on Supplementing the Education Provided By a Remedial School.

[374] Instruction of the Ministry of Education, Youth and Sports No. 17908/95-24.

[375] Instruction of the Ministry of Education, Youth and Sports No. 18371/96-24.

[376] The Council of Ministers of the EU announced the Leonardo da Vinci programme on 6 December 1994 for the period 1995 to 1999. The Czech Republic was able to participate first in a preparatory period, and since 1 October 1997 the CR has been a full member. It participates in the programme equally with institutions of European Union countries and the European Free Trade Area.

[377] Act No. 2 /1969 Coll., on Establishment of Ministries and Other Central State Administration Bodies of the Czech Republic, as subsequently amended.

[378] Government Regulation No. 324 /1996 Coll., which Sets Conditions and Amounts of Providing Subsidies to Private Schools and Pre-school and School Facilities.

[379] Legal regulation of issues of Churches and religious societies is within the substantive jurisdiction of the Ministry of Culture: Act No. 218/1949 Coll., on Economic Support of Churches and Religious Societies by the State, as subsequently amended and the government implementing regulation to it; Act No. 163/1990 Coll., on Schools of Theology; Act No. 298/1990 Coll., on Regulation of Certain Property Relationships of Religious Orders and Congregations and the Archbishopric of Olomouc, as subsequently amended; Legal Measure of the Presidium of the Czech National Council No. 307/1990 Coll., on the Jurisdiction of Bodies of the Czech Republic when implementing the Act on Regulation of Certain Property Relationships of Religious Orders and Congregations and the Archbishopric of Olomouc; Act No. 308/1991 Coll., on Freedom of Religion and the Status of Churches and Religious Societies; Act No.161/1992 Coll., on Registration of Churches and Religious Societies; Government Regulation No. 86/1993 Coll., on Personal Salaries Provided to Ministers of Churches and Religious Societies, as subsequently amended.

[380] Government Regulation No. 324/1996 Coll., which Sets Conditions and Amounts of Providing Subsidies to Private Schools and Pre-School and School Facilities.

[381] Decree of the Ministry of Education, Youth and Sports No. 357/1997 Coll., on Organization, Performance and Tasks of the School Inspection.

[382] Published in the Collection of Laws under No. 159/1991 Coll., on negotiating the Convention for the Protection of the World Cultural and Natural Heritage.

[383] Published in the Collection of Laws under No. 15/1980 Coll., on the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property.

[384] Published in the Collection of Laws under No. 94/1958 Coll., on the Convention for the Protection of Cultural Property in the Event of Armed Conflict and the Protocol to it.

[385] Decree of the Ministry of Foreign Affairs No. 12/1965 Coll., on the Convention concerning the Exchange of Official Publications and Government Documents Between States and the Convention concerning the International Exchange of Publications.

[386] Notification of the Ministry of Foreign Affairs No. 102/1998 Coll., on Negotiation of the Agreement on the Import of Educational, Scientific and Cultural Materials and Notification of the Ministry of Foreign Affairs No. 103/1998 Coll., on negotiation of the Protocol to the Agreement on the Import of Educational, Scientific and Cultural Materials.

[387] Act No. 20/1987 Coll., on State Historical Preservation, as subsequently amended; Act No. 50/1976 Coll., on the Zoning Plan and the Building Code, as subsequently amended; Act No. 244/1992 Coll., on Evaluation of Influences on the Environment; Act No. 114/1992 Coll., on Protection of Nature and the Countryside; Act No. 97/1974 Coll., on Archives, as subsequently amended; Act No. 273/1993 Coll., on Certain Conditions for Production, Dissemination and Archiving Audio-Visual Works and Supplementing Certain Acts and Certain Other Regulations, as subsequently amended; Act No. 148/1949 Coll., on the National Gallery in

Prague, as subsequently amended; Act No. 54/1959 Coll., on Museums and Galleries, as subsequently amended; Act No. 71/1994 Coll., on Export of Objects of Cultural Value and the Implementing Measure of the Ministry of Culture of the CR to it, as subsequently amended.

[388] Act No. 468/1991 Coll., on Radio and Television Broadcasting, as subsequently amended; Act No. 483/1991 Coll., on the Czech Television, as subsequently amended; Act No. 484/1991 Coll., on the Czech Radio, as subsequently amended; Act No. 4874/1992 Coll., on the Czech Republic Council for Radio and Television Broadcasting, as subsequently amended; Act No. 252/1994 Coll., on Radio and Television Fees, as subsequently amended; Act No. 84/1968 Coll., on Period Press and Other Mass Media, as subsequently amended; Act No. 468/1995 Coll., on Regulation of Advertising and Amending and Supplementing Act No. 468/1991 Coll., on Radio and Television Broadcasting, as subsequently amended; Act No. 37/1995 Coll., on Non-Periodic Publications and the implementing decree to it; Act No 53/1959 Coll., on the Unified Library System and the implementing regulations to it; Act No.35/1965 Coll., on Literary, Scientific and Artistic Works (the Copyright Act), as subsequently amended, and implementing regulations to it; Act No. 237/1995 Coll., on Collective Administration of Copyrights and Rights Related to Copyrights and implementing regulations to it; Act No. 318/1993 Coll., which Regulates the Status of Cultural Funds and Amends Act No. 35/1965 Coll., on Literary, Scientific and Artistic Works (the Copyright Act), as subsequently amended.

[389] Act No. 2/1969 Coll., on the Establishment of Ministries and Other Central State Administration Bodies, as subsequently amended.

[390] Government resolution of 28 April 1999 No. 401, on the Strategy for More Effective State Support for Culture.

[391] Act No. 425/1990 Coll., on District Offices, as subsequently amended.

[392] Act No. 367/1990 Coll., on Municipalities (Municipality Establishment), as subsequently amended.

[393] Act No. 676/1990 Coll., on Rules for Managing Budget Funds of the Czech Republic and Municipalities in the Czech Republic (the State Budget Rules), as subsequently amended.

[394] Act No. 586/1992 Coll., on Income Tax, as subsequently amended, permits natural persons and legal entities with residence in the Czech Republic to deduct, up to a certain limit, the value of gifts provided for, among other things, financing culture.

[395] Act No. 277/1997 Coll., on Foundations and Foundation Funds.

[396] Act No. 54/1959 Coll., on Museums and Galleries, as subsequently amended, and Act No. 148/1949 Coll., on the National Gallery in Prague.

[397] A monument is a museum whose exhibitions are dedicated to a single event or person, and its time and context. An exception is the National Literature Monument, which is a publicly-accessible, narrowly specialized collection of literature (a de facto national literary archive).

[398] Act No. 53/1959 Coll., on a Unified Library System (the Library Act), as subsequently amended, and implementing regulations to it.

[399] Act No. 241/1992 Coll., on the State Fund of the Czech Republic for Support and Development of Czech Cinematography, as subsequently amended.

[400] Act No. 273/1993 Coll., on Certain Conditions for Production, Dissemination and Archiving Audio-Visual Works, and Supplementing Certain Acts and Certain Other Regulations.

[401] These data do not include support from the Ministry of Culture for activities of the handicapped and members of national minorities.

[402] These data must be evaluated in relation to the total amount allocated for all other projects belonging to the field of non-professional (amateur) art and folklore submitted to the Ministry of Culture by other civic associations and organizers not established on a minority basis. For example, the overall amount spent to support non-professional artistic activities submitted by national minority organizations to the Ministry of Culture is roughly a third higher than the amount which the ministry spends for projects of non-professional art submitted by other civic associations and other non-profit entities without a minority base.

[403] See also Government Regulation No. 127/1995 Coll., on Declaring Areas of Unified Parts of Selected Cities and Municipalities with Preserved Sets of Folklore Architecture as Historical Preservation Areas.

[404] Act No. 71/1994 Coll., on Sale and Export of Objects of Cultural Value.

[405] The Standard for Elementary Education, approved by the Ministry of Education, Youth and Sports on 22 August 1995 under No. 20819/95-26. The Educational Program "Elementary School", approved by the Ministry of Education, Youth and Sports under No. 16847/96-2 as of 1 September 1996, amendments and supplements approved by the Ministry of Education, Youth and Sports on 25 August 1998 under No. 25018/98-22 with effect as of 1 September 1998. The Educational Program "Basic School", approved by the Ministry of Education, Youth and Sports under No. 12035/97-20. The Educational Program "National School", approved by the Ministry of Education, Youth and Sports on 17 March 1997 under No. 15724/97-20 with effect as of 1 September 1997 as an educational programme for grades 1-9 of elementary education. The Standard for Education in a Four-Year Grammar School, approved by the Ministry of Education, Youth and Sports on 12 February 1996 under No. 27532/95-2. The Standard for Secondary Occupational Education, approved by the Ministry of Education, Youth and Sports on 18 November 1997 under No.. 34221/97-23 with effect as of 1 January 1998. For fields of study of secondary occupational schools and secondary vocational schools the relevant topics are handled in teaching outlines approved by the Ministry of Education, Youth and Sports of the CR on 21 July 1998 under No. 23212/98-23/230 with effect as of 1 September 1998.

[406] Act No. 300/1992 Coll., on State Support for Science and Research, as subsequently amended.

[407] Act No. 111/1998 Coll., on Universities.

[408] Since 1993 the Office of Industrial Property is (under the Act No. 166/1993 Coll., which amended and supplemented Act No. 2/1969 Coll.) a central State administration body under the Act No. 2/1969 Coll., on the Establishment of Ministries and Other Central State Administration Bodies of the Czech Republic, as subsequently amended, section 2, paragraph 1, of the Act.

[409] Announcement of the Ministry of Foreign Affairs No. 191/1995 Coll., on Negotiation of the World Trade Organization Treaty, and those treaties which are an integral part of it and are binding for all members of the WTO (World Trade Organization).

[410] TRIPS - Trade-Related Aspects of Intellectual Property Rights.

[411] World Intellectual Property Organization - WIPO. The text of the Convention was published as Decree of the Ministry of Foreign Affairs No. 69/1975 Coll., on the Convention Establishing the World Intellectual Property Organization, signed in Stockholm on 14 July 1967, as amended by Decree of the Minister of Foreign Affairs No. 80/1985.

[412] Decree of the Minister of Foreign Affairs No. 64/1975 Coll., on the Paris Convention for Protection of Industrial Property of 20 March 1883, as revised (the Paris Convention).

[413] Decree of the Minister of Foreign Affairs No. 65/1975 Coll., on the Madrid Agreement on International Registration of Marks, in the Stockholm version, amendment: 78/1985 Coll.

[414] Notification of the Ministry of Foreign Affairs No. 248/1996 Coll., on the Czech Republic's Accession to the Protocol to the Madrid Agreement on International Registration of Marks.

[415] Decree of the Minister of Foreign Affairs No. 66/1975 Coll., on the Nice Agreement concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks of 15 June 1957, revised in Stockholm on 14 July 1967.

[416] Decree of the Minister of Foreign Affairs No. 67/1975 Coll., on the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration, as revised, amendment No. 79/1985 Coll.

[417] Decree No. 28/1981 Coll. of the Minister of Foreign Affairs, as amended by Decree No. 85/1985 Coll., on the Locarno Agreement on Establishing an International Classification for Industrial Designs, signed in Locarno on 8 October 1968.

[418] Decree of the Minister of Foreign Affairs No. 110/1978 Coll., on the Strasbourg Agreement concerning the International Patent Classification, as subsequently amended.

[419] Decree of the Minister of Foreign Affairs No. 212/1989 Coll., on the Budapest Treaty on the Deposit of Microorganisms for the Purposes of Patent Procedure and Implementing Regulations under the Treaty.

[420] Notification of the Ministry of Foreign Affairs No. 199/1996 Coll., on Negotiation of the Trademark Law Treaty.

[421] Announcement of the Federal Ministry of Foreign Affairs No. 296/1991 Coll., on the Patent Cooperation Treaty and the Regulation under the Treaty, as subsequently amended.

[422] Convention No. 401/1921 Coll., the Bern Convention for the Protection of Literary and Artistic Works (of 1886), revised in Berlin in 1908; for current wording of the Convention see Decree of the Minister of Foreign Affairs No. 133/1980 Coll.

[423] Decree of the Ministry of Foreign Affairs No. 192/1964 Coll., on the Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations.

[424] Act No. 35/1965 Coll., on Literary, Scientific and Artistic Works, as subsequently amended.

[425] Act No. 237/1995 Coll., on Collective Administration of Copyrights and Rights Related to Copyrights, as subsequently amended.

[426] Resolution of the Government of the Czech Republic of 27 May 1998 No. 355, on the Draft Substantive Outline of the Copyright Act.

[427] Act No. 527/1990 Coll., on Inventions, Industrial Designs and Rationalisation Proposals, as subsequently amended.

[428] Act No. 478/1992 Coll., on Utility Models.

[429] Act No. 137/1995 Coll., on Trademarks.

[430] Act No. 63/1991 Coll., on Protection of Economic Competition, as subsequently amended.

[431] Act No. 142/1996 Coll., the Commercial Code, as subsequently amended.

[432] One of the key activities of the Office of Industrial Property is, under Act No. 14/1993 Coll., on Measures for Protection of Industrial Property, deciding about provision of protection to inventions, industrial models, applied models, topography of semi-conductor products, trademarks and designations of origin of products.

[433] Resolution of the Government of the Czech Republic of 10 June 1998 No. 397, on Principles of Science Policy of the Czech Republic in the Transition to the 21st Century.

[434] Resolution of the Government of the Czech Republic of 9 December 1998 No. 811, on Preparation of the National Policy for Research and Development of the Czech Republic and on Activities of the CR Government Council for Research and Development. The national policy for research and development was approved on 5 January 2000 by resolution of the Government of the Czech Republic No. 16 (with corrections in resolution of the Government of the Czech Republic of 2 February 2000 No. 145).

[435] The national policy for research and development of the Czech Republic was approved by resolution of the Government of the Czech Republic No. 16 of 5 January 2000.

[436] The analysis was prepared for the Government by the CR Government Council for Research and Development. The Government adopted it on 9 July 1999 by resolution No. 563.

[437] Resolution of the Government of the Czech Republic of 22 March 1999 No. 249, on State Support for Research and Development in 2000 to 2002.

[438] Act No. 300/1992 Coll., on State Support for Science and Research, as subsequently amended.

[439] Resolution of the Government of the Czech Republic of 5 January 2000 No. 16, on the National Policy of Research and Development of the Czech Republic, in point III.3 charges all administrators of budget chapters which support research and development to prepare a plan for development of research and development in the field of their jurisdiction and reflect it in the draft State budget for 2001.

[440] This system is governed by Act No. 1/1995 Coll., on State Support for Research and Development, which amends and supplements Act No. 300/1992 Coll. (the full text was promulgated under No. 2/1995 Coll.).

[441] The Government approved the statute of the Grant Agency of the CR by resolution No. 111 of 22 February 1995.

[442] Resolution of the Government of the Czech Republic No. 27 of 3 January 1996, on rules for providing special-purpose financial resources from the State budget for support of research and development.

[443] Resolution of the Government of the Czech Republic No. 247 of 23 April 1997, on Government Principles for Research and Development. This resolution was repealed by resolution of the Government of the Czech Republic No. 16 of 5 January 2000.

[444] Act No. 106/1999 Coll., on Free Access to Information.

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